

City Council Special Called Meeting Transcript – 8/15/2018

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[9:26:35 AM]

>> Mayor Adler: All right. Are we ready to bring this? It is 9:24. We're in the city council chambers here in city hall. Today is August 15th. I'll call to order the special called to consider the major league soccer proposal issue of the mckalla site. Can we have staff come up on here and -- I don't know if there are chairs to sit with us here at the table. So we had kind of a base motion before. We had a base motion before. There were amendments that were raised, amendments that were raised. Last time. I think there have been some negotiations and discussions that have been had since then. There's another term sheet that was presented. What I'd really like, sir, if you could, is to explain us the changes since the term sheet before, and then like we do with a budget, it asks for a motion then to make the base motion, the term sheet as changed. And then having done that then we'll make further amendments -- we'll entertain further amendments then to that changed base motion. Okay? So we'll go ahead and proceed that way. Do you want to walk us through -- thanks for coming back to Austin. Do you want to walk us through the changes in the term sheet that have been negotiated.

[9:28:35 AM]

>> Certainly. Mr. Mayor, members of council, at the August 9th meeting we --

>> Mayor Adler: If you would just introduce yourself for the record, please.

>> Frank Jones with Greenberg charter representing Austin in the mls stadium negotiations. We had a term sheet that was presented to council on August 9th that included some changes that were made to reflect discussions we had with the council during a council briefing the week before. During the meeting last week council presented several amendments to psv, changes they thought would be helpful in making the deal work better for the city of Austin. We compiled all the amendments into a spreadsheet and presented them to psv, and what you have before you are their responses to the council amendments. There have been no changes to the term sheet to reflect these. These are just being presented to council for consideration.

>> Mayor Adler: Okay. Can you walk us through the -- these are -- in the term sheet there was an excel spreadsheet I guess that was handed out to us. Those represent the continued negotiations and things that the team is willing to accept?

>> Mr. Mayor, I want to be clear. I don't know if I will call that a negotiation between council and staff with the team. It's been kind of with city council and the team. We've reviewed all of the proposed amendments and their responses to make sure that there were no legal issues and none of the responses were detrimental to the city, but we haven't -- I haven't been directly involved with negotiating these items, but I'm happy to kind of walk through them and answer any questions you might have.

[9:30:38 AM]

>> Mayor Adler: Let's see then if there are questions associated with it. It's been published and people have had this available. Is there a motion to adopt this sheet as the -- and by this sheet, I mean the excel speed sheet that's been -- spreadsheet that's been handed out with the revisions in the Ralph custom, to make -- in the last column, to headache that our base motion. Is there a motion to do that?

>> Troxclair: What document are you referring to here?

>> Mayor Adler: So published, we're -- what we have given to us is a spreadsheet that has the amendments listed on the left side, this was published and given to everybody, both what was asked for in the amendment and what psv has answered that they're prepared to do. Those things I think go in kind of as agreed amendments. So I'd like to make that the base motion. That becomes the base motion, but it doesn't stop anybody from making any further amendments anywhere on this page or this document. It's just to get us the base motion to be able to work off of and then we'll entertain additional or specific amendments to that.

>> Garza: If the base motion is just the term sheet from last week, but amended with the yeses, only the yeses --

>> Mayor Adler: The yeses and the partials.

>> Garza: I'll make that motion.

>> Mayor Adler: Councilmember Garza makes that motion S there a second to that motion? Okay. Councilmember Flannigan seconds that.

>> Garza: I'd like to speak to that quickly with regard to my amendment, the Garza one. I've been trying to work with law to get some language because the language now says that Precourt will give the money to cap metro.

[9:32:46 AM]

And I just want some kind of assurance for cap metro in case that doesn't happen. And I understand we can't bind an outside party, which is cap metro at this point. And so we just quickly last minute asked -- and if money is not transferred, if the three million over the term as described is not transferred to cap metro, then it will be transferred -- twice as much will be transferred to the city. The purpose is to give the money to cap metro. If you don't give it to cap metro, you have to give twice as much to the city.

>> Mayor Adler: So let's go ahead and let's approve the base motion as it is and then let's come back -- we'll come back to that first. Because it's a change to the base motion. All right? If I start taking changes to the base motion I don't know where that stops. I just want to get the base motion done and then we'll ask for the amendments to it. Any discussion on the base motion? Okay.

>> Mayor?

>> Mayor Adler: We don't have to adopt it. So the base motion is now the motion that's in front of us, so I think that's right. So it's been moved and second. That's now pending in front of us. Now we can talk about changes to that base motion. Yes, mayor pro tem?

>> Tovo: Just a quick clarification. So the base motion includes any amendments that were marked yes?

>> Mayor Adler: It includes all the changes that are reflected in the right-hand column, term sheet revisions.

>> Pool: Mayor?

>> Mayor Adler: Hang on a second.

>> Tovo: The clarification I had -- and I lined by lined this a bit last night after we got it, but I need the staff to help me understand it. If it says yes, does -- it seems to me there's also still a chance that the language has been rewritten.

[9:34:49 AM]

And so I just want everybody to be aware of that, that just because it says yes that they've accepted the change doesn't mean that the language has been accepted in the way you've presented it.

>> Mayor Adler: Correct.

>> Tovo: --

>> The term sheet revisions are what they're proposing. We agree nothing has been accepted.

>> Tovo: Okay, thanks. I noticed some changes in mine that I'm going to address and I just wanted others to be aware of that as well.

>> Mayor Adler: That's right. That's why we said specifically is the base motion is reflected with the changes in the far right column. So that's the base motion then in front of us. Delia, now I'll go back to you to make the -- do you have another process question, councilmember pool?

>> Pool: I did. Because originally when you addressed this term sheet you said the yeses and the partials would become part of the base motion, but right now you're only -- and then you narrowed that down to only the yeses. So is it the yeses and the partials --

>> Mayor Adler: It's neither. It's the far right column. So when they say yes or they say partial, I'm not really sure whether that's real relevant. What's more relevant is what's in the right-hand column with the language changes in the term sheet.

>> Pool: But you are including partials in those changes that we are putting into the base motion because some of them are the partials. So I wanted to confirm that it was yeses and partials.

>> Mayor Adler: Yes, it's the language in the far right column. Councilmember Garza, and then we'll come back to this first change.

[9:36:50 AM]

>> Garza: So it's my understanding that if Precourt does not give that money to cap metro, the suggested language from law is then they're forced to give it to the city. And because it's the contract with them it's binding, they would have to give it to the city. But it's my understanding from law that we can't say now, city, you have to give it to cap metro. So what I'm trying to create here is a mechanism that -- that will force them to give it to cap metro because otherwise they would have to give twice as much to the city.

>> Debra Thomas with the law department. The concern is as the new amendment that councilmember Garza proposed that the city will enter into an interlocal agreement with cap metro. My concern is that this is an agreement with Precourt and as part of this agreement there's not an agreement that we can make that will make the city enter into an interlocal agreement with cap metro. Also that future council may or may not decide to enter into that future agreement with cap metro. So councilmember Garza was trying to find another mechanism to encourage psv to enter into the agreement with cap metro, and her suggestion then was that they give twice the amount of money to the city if they fail to enter into the agreement with cap metro. The city would still then use those funds for transit purposes to the extent that we have the ability to use money for transit purposes, but that would be her amendment.

>> Kitchen: I have a question.

[9:38:51 AM]

So for legal, I understand what you're saying that you can't bind the council to an agreement, an Ila, in a contract, if that's what I'm understanding. But could you not state the intent if the city -- if they pay double to us, I would still want that to go to cap metro. Could we not state that that would be the intent?

>> Yes, we can state the intent and that was our attempt is to state the intent as it was. I think councilmember Garza just wasn't -- didn't think that wasn't strong enough, but whatever we do, we can definitely say the intent of council is that that money will go to cap metro.

>> Kitchen: I'm talking about in addition to her. I'm not talking about instead of. I just want to make sure that that thought of stating that intent is not lost.

>> Yes, definitely.

>> Mayor Adler: Is the intent to make a liquidated damage clause? And it's if they fail to give the money to cap metro they have to give twice the amount --

>> To the city for transit purposes.

-- The likelihood that psv will not give the money to cap metro is low.

>> Mayor Adler: If they don't give the money to cap metro aren't they in default in the agreement with us?

>> They're in default of the agreement if they don't then give the money to us.

>> Mayor Adler: So I'm just losing the sense that they have to under the agreement give the money --

>> They do.

>> Mayor Adler:

>> Mayor Adler: -- To capital metro. And if they don't they have to give it to us, otherwise they're in default. Why is there a double charge? I'm missing what the concern is. That's what I'm missing. Councilmember Garza.

>> Garza: Because law has said -- there's no assurances that then the city gives it to cap metro.

[9:40:52 AM]

And she says we can't bind the city to give it to cap metro.

>> Mayor Adler: Okay. But if the city doesn't give it to cap metro, we shouldn't punish Precourt for that. If the city doesn't give it to cap metro, then the city should give double the amount to cap metro because it's the city that's responsible for doing that, right? I'm missing it.

>> The idea is they don't want to give twice the amount of money to anyone. So then psv would give the required amount to cap metro metro. So that they don't have to give twice the amount to the city.

>> Mayor Adler: But they have to give the amount to cap metro and if it they don't give to cap metro you said they have to give it to the city under the contract. Otherwise they're in default.

>> Yes.

>> Mayor Adler: And what -- what happens if they give the money to the city and the city doesn't give it to cap metro? That's the concern?

>> That is the concern.

>> Mayor Adler: And we're making them pay twice the amount if the city decides not to give the money that they got from Precourt to cap metro?

>> No.

>> Mayor Adler: I'm missing it.

>> As a substitute, councilmember Garza is saying -- is saying that the provision would now read that psv is required to give the funds to cap metro.

>> Mayor Adler: Directly, rather than to the city.

>> As it says now. But instead of saying if you don't give it to cap metro, give it to the city, they're saying if you -- she's saying if you don't give it to cap metro, you give twice as much to the city.

>> Mayor Adler: And help me understand why if they have to give money to cap metro they're in default or unless they give it to the city and they give all the money to the city why we would have them giving double the amount to the city?

>> To encourage them to give the original amount to capital metro.

[9:42:56 AM]

>> Mayor Adler: As opposed to giving it to the city.

>> As opposed to giving twice to the city.

>> Mayor, I think we understand the concern here in case psv and cap metro are unable to come to an agreement. What we would suggest is that in the absence of that the funds are just placed in an escrow.

>> Garza: That still doesn't allay capital metro's concerns for not receiving those funds. And I understand, mayor, your confusion, but if all parties agree, you give it to cap metro. If you don't give it to cap metro you give twice as much to the city. My assumption is that you're going to give it to cap metro. So is psv okay with that language.

>> Councilmember Garza, Richard Suttle on behalf of Precourt. This is new so we're trying to figure it out, but it's what the mayor was saying. You want a liquidated damage clause, but as we think through it just on the fly, if capital metro chooses not to accept the money then we would owe the city double, but if we agree to escrow what we've committed to doing and we essentially give it to cap metro and put it in an escrow account, then would that solve the same concern?

>> Garza: I really did not want this to be this long of a conversation. So why don't we move on to the next amendment and me and law and my staff and law can work on some language we can agree to.

>> Mayor Adler: Councilmember Garza.

>> Casar: -- Councilmember Casar.

>> Casar: I want to -- the club generally agreed to clarifying the affordable housing language, but the way that they clarified it I don't think is as clear as I'd like for it to be.

[9:45:02 AM]

So there's agreement to change the -- to change the language as it is written in the base motion to change the words "Coordinate with" to the word cause, so that stadium will cause a third-party to create the affordable housing, therefore agreeing that it is a breach of their lease if they don't ensure that affordable housing is built. And to include the words -- I think just at the end to say such affordable housing should be affordable to families making 60% of mfi or sold to families at 60% mfi or less. So it's clear.

>> Pool: Can I get a page or amendment so I can follow along?

>> Casar: If you go to page 6 on this term sheet, on the one that was handed out here, if you look at the far left column you can see what I proposed on the dais on Thursday. And if you look at the far right column it is what the team came back with. They removed the word cause and they removed the clarification that affordable housing has to be 60% mfi or less for rental and 80% mfi or less for ownership. I think they did that for clarifying purposes, but just to be really precise, I think it's important to include both of those things, and I think there's general agreement to change the words coordinate with back to the word cause. And then to add 60% mfi and 80% mfi. 60% for rental and 80% for ownership back into the language. You would just change the words energy the base motion coordinate with to cause. And then you can just add -- to make it easy, just imagine a new sentence at the end that says "The affordable housing --" on exactly as it's written in my original amendment.

[9:47:08 AM]

The affordable housing must be rented to families at 80% mfi or less or sold to families at 80% mfi or less. We understand that it's not above 80% mfi, and I anticipate that's what the staff would write, but I think it's good to have it here.

>> Mayor Adler: Is there a second to this amendment to the base motion? Councilmember kitchen seconds that. Is there any discussion? Those in favor please raise your hand? Those opposed? It's unanimous on the dais with Ms. Houston off. Then another area that I think there's been discussion on is ancillary development. We will entertain a motion on the ancillary development issue. Mayor pro tem, do you want to make one?

>> I

>> Tovo: I would. I was going to start with some of my amendments that I think are less complicated, but I'm happy to make that one.

>> Mayor Adler: Let's start there, thank you.

>> Tovo: It is... 10-a as noted here. And on the amendments I distributed today it's number 10. And the amendment is the city shall retain all control of all ancillary developments.

>> Mayor Adler: Okay. Is there a second to that? Councilmember alter seconds that. Do you want to discuss it? I'm sorry.

>> Kitchen: Mayor pro tem, I'm sorry. Can you point us to it again?

>> Tovo: Sure. It is on the --

>> Kitchen: Is it on the yellow sheet or the spreadsheet?

>> Tovo: It's on both. And one of the things I've tried to do, I have made some adjustment. There are some areas from the amendments I distributed last week that have been adjusted on this.

[9:49:14 AM]

And I've tried to indicate those with an asterisks here. This one I believe is exactly what I distributed last week. It's item 10, amendment 10 on this one. And the staff on the spreadsheet have identified it as 10-a.

>> Houston: Mayor?

>> Mayor Adler: Do you want to address that issue?

>> Tovo: Sure.

>> Mayor Adler: I'm sorry, Ms. Houston?

>> Houston: Mayor, because many people have not seen this, could we start putting these amendments on the overhead so people in the audience can see what we're talking about.

>> Mayor Adler: We can, and hopefully people have seen this because it was something that was distributed -- the language was distributed last week as part of the -- your amendments last week, were they not, mayor pro tem?

>> Tovo: Sorry, I'm hearing two questions. I have two questions at once. Yes, it was distributed last week was your question. Is it a new provision? I guess it depends on how you regard that. It's not currently in the document, but I raised it last week.

>> Pool: It's on my list as a new provision.

>> Tovo: What does that mean?

>> Mayor Adler: If we take a look --

>> Pool: It means it was raised last week, but it wasn't included in the document that we have in front of us.

>> Tovo: Yes, it's a proposed amendment.

>> Mayor Adler: So if we take a look at the base term sheet, on page 2 of the base term sheet that everyone has, there's a section real estate development on-site. The third bullet point down is ancillary development. And I would think that what this is would be . A substitution in essence for that ancillary development section that's in that.

>> Tovo: Yes. There's a bullet point and I'd be happy to speak to my motion at the bottom of page 2 and then it goes on to page 3 so it would be substituting the entire bullet and subbullets under ancillary development by stadium co with a statement that we retain the rights, the control over all ancillary developments.

[9:51:36 AM]

This is in my mind allowing allowing -- allowing the redevelopment of other portions of the site and I believe if we're going to have that conversation with stadium co or anyone else, it needs to be a different conversation and include a lot more details than we have in this piece of the agreement. And so hence my intent of striking it for now.

>> Mayor, if I could just add in just for the public watching, this amendment is in the compiled list that was sent out. It's item 10-a, tovo 10-a. It was in the compiled list. It was an amendment, a proposed amendment from last week and it's in this one as well that you handed out, but it was in the compiled list that was put out.

>> Mayor Adler: All right. I'm going to offer an amendment to the amendment. And the amendment to the amendment I'm going to offer is going to be a language change, and it would be to add a sentence under the existing section at the bottom of page 2 of 27 where it says stadium co shall submit any proposal for ancillary development to the city for approval and then to add the sentence any ancillary development must be by mutual agreement of the parties with each party having discretion. Is there a second to my amendment and I'll speak to it? Mr. Flannigan seconds that. Okay. It says any ancillary development must be by mutual agreement of the parties. With each party having discretion. The reason that I make that amendment is because I think that is consistent with what I believe to be the earlier conversation, is different than what is in the materials that have been given to us by Precourt.

[9:53:40 AM]

I think the issue of ancillary development needs to be one that gets negotiated in the future with the city having the full discretion to approve or not approve. So that if Precourt comes to the city with a suggestion for an ancillary development, it's got to be obviously one that is good enough to entice the

city to participate. But I also think that at the same time the major league soccer having leased this property also shouldn't have something that's put to them by the city that they think doesn't work for them. So it requires the parties in the future to come and negotiate those issues. Councilmember kitchen.

>> Kitchen: If you could just -- so what you're doing is you're replacing all the [inaudible] With your language?

>> Mayor Adler: No. It would be just a sentence that gets added. I mean, all the other sections I think are fine with this.

>> Kitchen: Well, the third subbullet speaks to the situation if there was an ancillary. So I'm thinking for yours to work that third -- the third bullet that says ancillary development by stadium co, I understand that's where these amendments are being made. And those subbullets under that bullet, I'm thinking what you would need to be doing is replacing those, right? Because they are further defining what would be in an ancillary development and the amendment that both of you are talking about is basically -- you wouldn't need that anymore.

>> Mayor Adler: Right, so yes.

>> Kitchen: So what you're doing is -- I'll ask you to say it again and I think it's the same intent as mayor pro tem. I just want to clarify that you're then striking those other subbullets.

>> Mayor Adler: Correct. It would just say any ancillary development must be by mutual agreement of the parties with each party having discretion.

[9:55:41 AM]

>> Mr. Mayor? Just for clarification, if you strike all the other bullets, you also strike councilmember Casar's affordable housing amendment, which is also included in that section.

>> Kitchen: Okay. So you need to make that a bullet, not a subbullets then.

>> Mayor Adler: So we don't want to say anything about ancillary development other than the parties will -- over the course of this lease, the duration of this lease, if there's any ancillary development to happen, it has to be something that happens by mutual agreement.

>> I think we understand that and we can write it the way you're describing it. I just want to make it clear that if you struck all of the other language it would eliminate the affordable housing discussion.

>> Mayor Adler: Okay. So then I guess the motion would be to substitute that section with language that says that -- just that, ancillary development has been by mutual agreement and the party's discretion and to remove anything else in that section that's inconsistent with that sentence, but maintaining the affordable housing issue that's not inconsistent with that. That then becomes the motion.

>> Kitchen: I would state it a little bit clearer. That's clear, but I would state it as remove anything else that refers to the ancillary agreement so you don't have to make a decision about whether it's consistent or not.

>> Mayor Adler: Okay. Discussion? Mayor pro tem.

>> Tovo: Could I suggest that we see this in writing? I think it's just -- there are too many pieces flying around for me to be able to capture the distinction between what I've proposed and what you've proposed and where it goes. And I think as our attorney has already indicated, just talking about it on the dais we almost lost the passage for affordable housing. I think we need to see this in writing.

>> Mayor Adler: That's fine. I'm halfway through writing it.

>> Tovo: Some of my concern -- anyway, I'll know better whether I can support your amendment once I actually get a chance to read it.

[9:57:46 AM]

>> Mayor Adler: Okay I can give it to the clerk now.

>> Pool:mayor?

>> Mayor Adler: I'm sorry, what? Can he do it realtime?

>> He can do it right now.

>> Mayor Adler: Okay. Can we do that? And my understanding, if, Mr. Subtle -- my understanding is that at this point Precourt will let that -- will agree to that section? Is that correct?

>> Mayor, as I understand it, any ancillary development would have to come back to council for approval, subject to the mutual agreement of both the city and psv with their sole discretion.

>> Mayor Adler: That's correct.

>> So it doesn't take away the ability to do ancillary development. It just means that we have to mutually agree upon it.

>> Mayor Adler: That's right. And I would be fine, councilmember kitchen, with keeping the first sentence there, stadium co shall submit any proposal for ancillary development to the city for approval and the sentence we add would be an added sentence.

>> And then the rest comes out for the term of the agreement.

>> Mayor Adler: Correct.

>> Yes, Precourt would agree to that.

>> Mayor Adler: Okay. I've written it down. Do we need -- would you --

[9:59:49 AM]

>> Alter: Mayor, may we clarify that? Because I don't believe what Mr. Subtle just said is the same intention that Ms. Tovo had. Once we get an answer to that, I do have some other comments on the ancillary development.

>> Pool: As do I.

>> Mayor Adler: In fact, and my only question, it might be the same intent, but I read the mayor pro tem's amendment to say that it was the city that had the control of ancillary development, but I read that to say that the city could then decide and force on the property ancillary development that it wanted that major league soccer or the team felt disrupted operations or did anything else. So the intent was to make it a mutual control, in essence giving both entities a veto power over ancillary development. That was my only concern, and I don't know if you intended for the veto power to only go one way or whether it was also your intent -- intent for it to be mutual.

>> Tovo: As drafted it is just veto power for the city. I'm opening to considering what you drafted here but I'd need to better understand what it means for each party to have discretion, what the approval metrics will be like. In the first draft, in the term sheet, it had a level of city approval and I'm not satisfied with the level of city approval and I want to be very clear that that's not going to meet what I see as the needs of the revision. And so --

>> Mayor Adler: So this was --

>> Tovo: With all due respect it would be really helpful to see where this fits into the passage, exactly what we're taking out, what we're taking in, and then to really better understand what process we're talking about. Are we delegating this to the staff, which I can't support, or would this be a decision coming back to council?

[10:01:53 AM]

>> Mayor Adler: I think -- in my reading of this, that it has to come back to council because it's a real estate question and the staff hasn't been authorized to negotiate any ancillary deals of any kind. And the place it would be would be at the bottom of page 2 of 27 and it could go right after the first sentence, stadium co shall submit any proposal for ancillary development to the city for approval period then this sentence would say any ancillary development must be by mutual agreement of the parties with each party having discretion. That means each party has the ability to say yes or no or come back with alternatives. But at the end of the day if either party doesn't want to do it then it doesn't happen, which means that if Precourt wanted to do something or the city wanted to do something, Precourt came to us with something, they would have to make it enticing enough for the city to do. All the rest of the language would go away, except for the language that speaks to the affordable housing component that was related to councilmember Casar.

>> Tovo: So the other language I would like to preserve is last bullet, agrees that a portion of the site shall be accessible by the public, et cetera, et cetera. That's also as currently crafted a subbullet of this ancillary development piece. About what the approval process would be in terms of coming to council. We can work. We can all sort of work to craft language that would clarify that or I can do the best I can here on the dais to do that, but that was one of the reasons why it seemed to me the easiest option was to remove it.

>> Mayor Adler: Right. Let me ask a question of legal. If we have --

>> Tovo: If we want to go down this path I would ask for some language that clarifies that this approval is going to happen as would any other approval and that -- I mean, it's -- there's no language in here that replaces what's in the terms of agreement, which are very vague as to who is going to be making those decisions about whether the development is reasonable whether the uses contemplated would be reasonable, whether there would be a revenue sharing for that new development.

[10:04:02 AM]

I mean, those are not decisions -- those are not decisions I'm willing to delegate and we haven't spelled out what the arrangements would be and I'm not interested in having vague language around any of those points, about use, about level of build out, about revenue sharing opportunities.

>> Kitchen: Mayor pro tem, I have suggested an addition to this if it's okay with the mayor.

>> Mayor Adler: I'd like to ask a question of legal to understand because I think we're making this -- and I hear the concerns. There are concerns about public access, public space, but certainly the city doesn't have to agree to anything unless it has not only these but more than these things in it. I mean, by this language, the city could say we're not going to agree unless there's 24/7 access to the entire property. The city doesn't have to agree to anything it doesn't want, to including those provisions, plus more provisions. And then the legal question I have is, if we enter into an agreement that says that an ancillary development has to be approved by the parties, in this case the city, doesn't that have to come back to council?

>> Debra Thomas with the law department. The staff would bring that back to council, any proposal for development of the ancillary pieces of the project, we would bring it back to council.

>> Mayor Adler: Those are the kind of things by charter and state law have to come back to council. That's not -- so I think -- mayor pro tem, I think both of the concerns you have are addressed with this language. Yes?

>> Kitchen: I hear agreement between you all. The disagreement I hear is -- and I'm not sure if I'm hearing the mayor pro tem correctly. The disagreement I'm hearing is just that this language doesn't exactly include what the status would be.

[10:06:03 AM]

So what if we just said any ancillary development must be by mutual agreement of the parties with each party having discretion and final approval by the city council?

>> Mayor Adler: That would be fine by me. So can you add -- is there any objection to adding that language to the end of that sentence? Would you, please, on the -- what the public is looking at after discretion, would you please write on that -- what was the words should.

>> Kitchen: I said and final, I don't know if final is the right word, and final approval by the city council. I'm trying to capture what we said would need to happen, that it would need to come back to city council, I'm trying to state that explicitly so there's not a question.

>> Mayor Adler: With no objection that's included. Yes, councilmember pool.

>> Pool: I may have an objection. I'm concerned about the revenue piece that the mayor pro tem brought up. It seems like an open-ended commitment. It also means there's a king's X that Precourt can bring to the city of Austin. It's still our land. We are leasing it, but they don't -- they should not have total authority to control it or be a king's X on what the city of Austin may decide is important to do on that property. They're not -- they have been really specific about their operations are within the stadium itself. We are trying to carve out with clarity and finality the fact that the rest of that site has to come under the control and direction of city of Austin. I think that the amendment that the mayor pro tem is offering about the city shall retain all control of ancillary developments is a prudent amendment for the council and does not give anything away to the future, where we may find that we cannot come to any agreement with Precourt and we want to do something that is very community-benefit-related and we would be prevented from doing it by that entity. And I think that's not a prudent element to have in this contract, so I don't agree with this amendment to the amendment for those reasons.

[10:08:12 AM]

>> Mayor Adler: Certainly you can vote no to it.

>> Kitchen: Could I clarify? The intent of of this language as I read it does not give any authority to Precourt. It says by mutual agreement, which just means there's mutual agreement, but it says "Final approval by city council." So if Precourt is suggesting something we don't want to do, we don't do it. So I was hearing you say that we weren't having that authority. But I read this to give us that authority.

>> Pool: I think that you do move the ball. I agree. My concern is there would be a big debate before any of that and there would be some question about who actually has the final control. And rather than having to enter into this -- we certainly could have those conversations but I feel very strongly this property is the city of Austin's asset and we should maintain control where we can.

>> Kitchen: Well, I certainly agree. But I don't see this language leaving open -- the reason for this language is to not leave open the interpretation that you're just pointing out. I think this language does not leave open the interpretation that the city may not have final authority because it says it's coming back to city council, which means we vote on it.

>> Pool: I completely agree, and I would also say and then so why don't we just take the mayor pro tem's language? Because that goes directly to the final approval of council.

>> Kitchen: The mayor pro tem's language doesn't say it will come back to city council.

>> Mayor Adler: And it -- we have a ground lease for granting and it's all of the property as it is described and it's being leased. Ultimately when we do this deal we should only be doing this deal if we want it to be successful. And what goes on that property is going to impact, obviously, the soccer operations and it's going to impact the public interest.

[10:10:15 AM]

There's a significant substantiative difference between the two. To say that the city controls this I think is an amendment which would effectively kill this deal and I think it goes beyond what it is that we should be asking -- we should say the parties on this property -- even though Precourt is leasing the entire property, even though they're paying to lease the entire property, they still have to come back to us before they can do anything that would be ancillary and they have to propose something that's good enough for us to agree. We don't have to agree. So that's the basis for that. So the amendment to the amendment is up on the board. Is there any further discussion? Mayor pro tem.

>> Tovo: Yeah. I'm drafting this up because I do think one of the things we've just nearly lost is the stadium co shall be responsible for payment of any and all applicable taxes for the ancillary development, including property taxes, that was in a subbullet we're about to strike. So I would suggest that we continue -- that we continue on and that we return to this. I've typed up your amendment and this little piece now. I would like to see in there and will move to have in there something along the lines -- and I would have legal's help on this, something along the lines that says nothing in the final agreement should be intercepted to grant approval by the council for particular uses or particular levels of development with regard to ancillary development and that the expectation is that there would be, with that ancillary development, some level of revenue sharing. And then again that statement that we've -- that we momentarily, I think lost, which is that stadium co shall be responsible for the payment of any and all applicable taxes.

>> Mayor Adler: And I --

>> Tovo: I think if we could get some sentence about, you know, we are not agreeing in advance to particular kinds of ancillary development or particular uses or any -- making any arrangements with regard to what the revenue sharing by the would be, then I think we can get there on this.

[10:12:34 AM]

>> Mayor Adler: By saying that the city doesn't have to agree to anything, which means the city doesn't have to agree to anything that doesn't require anything, the city can ask them to say we're not going to

sign anything if you don't pay the taxes, the city could say we're not going to agree to anything if you don't give us all of the revenue, the city could say we're not going to agree to anything if anything. So we didn't lose nearly anything. In fact perhaps if anything we've expanded the list of things that the city could insist upon because there's no limit in the amendment to what the city could insist upon. And the whole purpose of this is to try not to be negotiating now what the ancillary uses will be in the future. We can insist upon anything because we have the discretion. And it has to come back to city council. So there's no limit to what we can insist upon. We could go to them and say, you know, we just don't want to have any ancillary development. So we don't care what you bring to us. The answer is no. We're not going to do any ancillary development because it's within our discretion to either allow or not allow ancillary development with whatever terms it would be that the city council would ask for at that point. So pulling up -- I mean, you could pull up six terms and I wonder about the other six --

>> Tovo: I'm not adding terms. Mayor, I am simply trying to articulate that we are not agreeing to any terms today for that ancillary development. I would like a sentence -- here's the reason why. The sentence that we are substituting, any ancillary development must be by mutual agreement of the parties with each party having discretion, is not substantially different, necessarily, from any ancillary development by stadium co must be reasonably approved by the city. I mean, there is a difference, but it's not substantially different. Neither of them talk about the terms not being settled. And I'm concerned because different individuals looked at that passage and had very different ideas about what we were and were not agreeing to in that piece.

[10:14:40 AM]

>> Mayor Adler: So --

>> Tovo: Then the other part I have questions for but, what does it mean to say that each party -- with each party having discretion?

>> Mayor Adler: That means that either party can say no. Because it wants to. The other language had a reasonableness standard implied which then said that the city couldn't act unreasonably. So someone might interpret that to say that if Precourt came back with something that they thought was reasonable or something that fit within the zoning classifications, reasonableness standard highlight require us to approve it so we made it stronger than that in this language to say, no, it's within our direction so we're not bound by a reasonableness standard. So it was to address the potential ambiguity of just saying for city approval -- it didn't actually have the word "Reasonable," it just says for city approval, but courts could apply a reasonableness standard to that and this language was designed to make it stricter, more beneficial for the city, by removing that potential limitation.

>> Tovo: Okay.

>> Mayor Adler: I mean, I think this gives you everything. But I would also be okay with adding a word to the bottom of if it's something that you wanted to add that says -- we're not agreeing to any terms now.

>> Tovo: That's what I'm aiming for. To me with each party having discretion, it's redundant because if we're making a mutual agreement you're going to use your discretion in arriving at that. If what we're trying to solve for is making sure that we're getting far away from the reasonableness standard, I'm all in favor of that, but.

>> Mayor Adler: That's what the intent was.

>> Tovo: I'll note that as odd. Anyway, I think it's fine, as long as we can get to that -- I'm fine with each party having discretion but I do think we need that additional sentence.

[10:16:41 AM]

>> Mayor Adler: And that additional sentence could say --

>> Kitchen: I have --

>> Alter: I was before you.

>> Kitchen: I have proposed language for that and you may need to wordsmith it to add it to the end. The city is not agreeing to any terms with regard to ancillary development. And you can wordsmith that a little bit, but that's trying to capture what the mayor pro tem is suggesting.

>> Alter: mayor.

>> Mayor Adler: Is that language okay?

>> Tovo: I think so.

>> Mayor Adler: The city not agreeing to any terms with regard to ancillary development. Would you -- clerk, would you write that at the bottom of that page?

>> Alter: Mayor.

>> Mayor Adler: Yes.

>> Alter: So in that section I wanted to point out we still have to retain the bullet that defines what ancillary development is. But there was another section that said that if they didn't do ancillary development after ten years the city had the right to do that. I had trouble with the part about having to replace their parking in that process because that is a loophole. That could mean we would never have that opportunity. So how would you propose, given the language that you're suggesting, that we retain a right for the city to to just move forward with the ancillary development after a certain point in time if they haven't done it. It is after all our property and if they take too long to develop it we have a need and a right to be able to develop it, which as I read it, we are losing via your language. I think the language you're proposing is a step in the right direction for having more control. I do also want to point out that as I read the term sheet from August 9, we already removed the reasonableness standard and it says approved. The problem is that we don't have any control over the revenues or the other stuff in the same way because of this clause here with the parking and other stuff.

[10:18:46 AM]

And so how would you -- how would you, if we -- how would you propose that we make it very clear that after a certain amount of time if they haven't done ancillary development and there's space and the city chooses to build ancillary development, that we can move forward with that? In the future.

>> Mayor Adler: So with respect to that I'd say first when we took out the word "Reasonable" when that disappeared I don't think it changed the legal import so I still have concern that the city would be found by a court potentially to have to agree to an ancillary development it didn't want to agree to, that the court would apply a reasonableness standard. So I think the language that's been put up on the board and exists on the overhead right now makes it very clear. And to be true -- to be clear, we certainly do own this property. And we -- we own the property. Someone is building a \$200 million stadium on it and then giving it to us and then we're charging them rent and they're paying rent for the stadium they just built on our land, but they have a ground lease for a period of time. So they're the lessee on the property. So the intent of this was to say we're not putting any restrictions or anything on ancillary property, neither the city has the right to go and to do things, neither Precourt has the right to do things for the term of this lease, as we talked about earlier. So both parties, if they want to do anything that's ancillary on the property, need to come in and work it out. The city is going to have to come in and -- Precourt is going to have to come in and have a deal good enough for the city to participate. If the city doesn't want to participate it could say no. At the same time, the city couldn't do something that Precourt said isn't going to enable us to be able to operate our soccer stadium or to be able to proceed. So I think that's the deal and that's the deal that that -- the league and Precourt have agreed to on this and I think that's the -- the best solution for ancillary.

[10:20:53 AM]

We're going to say -- we're not going to decide ancillary uses now but the duration of this lease if anything happens on there it's going to happen on there because both the city and the soccer league got together to agree to do it and it has to come to council for approval. Councilmember pool.

>> Pool: Mayor, I have a question on the amendment we're working on with regard to which portion of the contract and the terms. We had a first 20-year term, does this apply throughout the entire 50-year term of this contract.

>> Mayor Adler: It would be carried forward the same way all the other provisions in the contract carry forward.

>> Pool: We need to add in strict clear language to make sure that's understood 20 years from now.

>> Mayor Adler: But we could add that same clause at the end of every paragraph in this agreement. Every paragraph in this agreement unless stated otherwise is something that continues on if the contract is renewed.

>> Pool: Thank you, mayor. I would also like to make sure that the remediation cap and event services cap amendments also come to a vote. We talked about the city being on the hook for additional financial commitments because some of these are open-ended and in this instance with ancillary developments I want to make -- ancillary agreements I want to make sure we're not setting caps above the estimated caps.

>> Mayor Adler: We'll get to those in a moment. What's before us is the amendment on here. It also says -- comes to with the instruction for the staff to take out language that would be in conflict with this, maintain the language with respect to the affordable housing. It's been moved and seconded. Is there further discussion? Mayor pro tem.

>> Tovo: Yeah. We're also maintaining the last bullet, which is stadium co agrees. We just had that first page but we don't have the second page. In addition to keeping that bullet that follows it about affordable housing we should also keep the bullet that stadium co agrees that a portion of the site shall be accessible by the public 14 joint, health, comfort, welfare, leisure activities and special events.

[10:22:59 AM]

As I mentioned that's a subbullet of ancillary development, but needs to be preserved.

>> Mayor Adler: I'm fine with preserving the language about affordable housing as we discussed. But I don't want to start putting in one or two or three of the things that we might ultimately want to get. There are probably 400 things we're probably ultimately going to want to get. And wenches have to agree --

>> Tovo: I think it's a different section.

>> Mayor Adler: What? Okay.

>> Tovo: I had looked at the revised. That section is somewhere else.

>> Mayor Adler: It's been moved and seconded. Any further discussion?

>> Alter: Mayor.

>> Mayor Adler: Yes.

>> Alter: I'm wondering if we can keep what we just did and keep back in there a portion about the part about what happens after ten years. It would be the portion that's in there, if stadium co does not present plans to redevelop areas of the site not incorporated into the stadium project within ten years of the opening of the stadium the city will have its right subject to reasonable input and review by stadium co to redevelop such areas of the site and then we would only keep part one, and we would delete the part about repeating the parking. So the city agrees that if it advises the city redevelopment right maybe at the ten-year mark, such redevelopment will not interfere with the club's use of the stadium or any activities typically conducted at or ash the stadium in connection with the club's home games.

>> Mayor Adler: I would not support that because I don't think that was the deal that works in this instance. I think that there was some concerns expressed by mayor pro tem and others with respect to ancillary uses. I think the way that we resolved the ancillary uses with an agreement to say we're not going to agree on anything about ancillary uses. We'll let the city have absolute right to say no in the future. And in any kind of negotiations, there's give and take.

[10:24:59 AM]

So I think that trying to put a ten-year cap on this becomes, again, a poison pill and deal killer on this. All we should be saying about ancillary uses is that it's going to be negotiated in the future.

>> Alter: Mayor, this is already in the agreement. I'm just saying not to delete that portion. I'm only --

>> Mayor Adler: No, no. I understand.

>> Alter: So I don't see how that's a poison pill.

>> Mayor Adler: They would agree to the agreement as it was written. If we were going to take it as it was written. But we've come back in and said that we don't want to take the agreement as written because we want the city to have the absolute right to be able to say yes or to say no on something.

>> Alter: And we're giving away the -- we're giving away rights to develop on our property after ten years that were in the agreement.

>> Mayor Adler: I hear that. It's possible from the other side that the city could say no for ten years and then the city controls all the ancillary developments. Now that we've given the ability of the city to be able to say no to anything, this is something I just believe has to be reciprocal positioning. Otherwise, this section and the changes that we proposed don't work. Councilmember kitchen.

>> Kitchen: I think I heard -- I just want to clarify. So what we're -- did I hear you just say that -- did I hear you just say that the city could develop it later?

>> Mayor Adler: The city can develop it later only if there's mutual agreement between the parties. Precourt can develop it later only if there's mutual agreement between the parties.

>> Kitchen: Okay. And it goes on for the entire --

>> Mayor Adler: For the duration of the lease. Yes, councilmember troxclair.

>> Troxclair: So what happened to the handwritten note? Was that --

>> Mayor Adler: It's up there.

>> Troxclair: Well, but what about the other -- the other one that we were working off of?

[10:27:03 AM]

Is that not included in this vote. I would feel more comfortable if we had something typed out like mayor pro tem has suggested multiple times. I am getting --

>> Mayor Adler: Let's see. Frank, would you look at this page with me and tell me what sections -- if I'm looking at the page that's up on the board, ancillary development includes commercial, retail, and residential development, associated parking built within the site. I think that just defines ancillary uses so that's something that could remain. The next bullet point about does not present plans within ten years,

[indiscernible] So that next bullet point would be the bullet point that comes out, that begins --

>> [Off mic]

>> Mayor Adler: What?

>> I believe that's what's presented on the board.

>> Mayor Adler: Okay. The board has that already. So it's already presented. So the typed out section that suspect what you see on the screen.

>> Yeah. I think the only thing that was added was councilmember kitchen's last sentence to clarify what come to wanted regarding the city not agreeing to any terms for ancillary development at this time.

>> Kitchen: Can we write that in?

>> Mayor Adler: It's written in. It's the handwritten --

>> Alter: That's the second part of what mayor pro tem suggested. The first part, which you modified, is on a different sheet and it's on the prior page of the agreement and is a different item. So there's two parts to this amendment. I believe. Unless it's in Orange and we can't read it.

>> Mayor Adler: It's in Orange.

>> Alter: My apologies.

>> Mayor Adler: So that is the retyped version. The only question is whether we keep the definition of ancillary development, including commercial, retail, and residential development, associated parking.

[10:29:09 AM]

I think that section would stay in. Frank, is that right? Okay. So if -- clerk, if you could please circle the first -- the second language that's in our interest is ancillary development -- no. Below that. That bullet point. That bullet point which is shown to be stricken would stay in. That's just the definition of ancillary. So the amendments to this section add the language that the mayor pro tem wanted, must be by mutual agreement of the parties with each party having discretion and final approval of the city council. The city not agreeing to any terms with regard to ancillary development. The next ancillary development

definition stays in. The next sections -- bullet point comes out. The next one is deleted as shown. And then the last section stays in. That's the affordable housing use. That stays in.

>> Pool: Can I confirm --

>> Mayor Adler: Councilmember pool.

>> Pool: Thanks. The ancillary question, is this about what happens after the agreement ends fully? Or is it during?

>> It is during.

>> Pool: So do we have any certainty about if we're leasing the property for 50 years without bidding it out competitively, what's the impact on all of this with the ancillary after the 50 years, at the conclusion of the 50 years? What happens? And do we have any protections for the city in here for that?

>> Well, I believe this would operate just like a general ground lease, that at the end of the term, all of it is yours.

[10:31:11 AM]

>> Pool: So you say this operates like a general ground lease. Is that something that is in this document so there's no questions or. . .

>> No. I mean, I think that's just implied and it would certainly be set out more clearly in the lease and development agreement. But your rights would be at the end of the term.

>> Pool: Okay. I hope that we do that.

>> Most definitely. I understand that, and that would be very clear in the lease.

>> Pool: Thank you.

>> Mayor Adler: The last paragraph of course includes the Casar amendments that we've already voted on. Councilmember kitchen.

>> Kitchen: I'm ready to vote on this, but I continue to have another question that I'll ask afterwards.

>> Mayor Adler: Okay. Let's go ahead then and take the vote. Those in favor of this amendment please raise your hand. Those opposed. Councilmember pool voting no. The others voting aye on the dais. Did you vote, councilmember alter?

>> Alter: I'm abstaining.

>> Mayor Adler: Okay. Pool votes no, abstentions are alter, the others voting aye.

>> Pool: Mayor, I'd just like to --

>> Mayor Adler: Two abstentions.

>> Pool: I'd like to state for the record --

>> Mayor Adler: Wait, wait. Two abstentions, alter and troxclair abstaining, pool voting no, others voting aye. Councilmember pool.

>> Pool: I'd like to state my objection to this is because I do support the city giving away the discretion and the sole control of this site for this period of time and allowing the discretion to be ceded to Precourt.

>> Kitchen: Mr. Mayor.

>> Mayor Adler: Yes.

>> Kitchen: Can I raise the question I was going to raise now?

>> Mayor Adler: Yes.

>> Kitchen: The question I was going to raise -- first off, I'm sorry would you please remind me the terms -- the term, is it 20 years with renewals.

>> Mayor Adler: Yes, three ten-year terms.

>> Kitchen: Okay. The reason I'm asking that is because that is a long period of time, and I would like to consider that putting back in some version of the language that we just took out with regard to the ten-year mark.

[10:33:23 AM]

If we want to take a little more time to think about that I'm happy to do that. And the reason for that is that 50 years is a long time. So -- or it's 30 years, right? I'm sorry. 30 years is a long time to just say that there -- we could end one no development on that land when there might be a need of it. So I recognize what the mayor was saying, and he is correct in what he was saying, that this was all part of the package. So I'd like to take a minute or two to deal with that. We can come back to it if you'd like. But I would like to --

>> Mayor Adler: We can come back to that. Again, my concern was stated earlier.

>> Kitchen: Yes, I understand.

>> Mayor Adler: But we can certainly come back to that. This is a ground lease we've entered into. We own the property but we're leasing it to someone. When you lease the property to someone then they have the right to use that property. And that's what's happening here. Okay. Is there another amendment that someone would like to bring with respect to -- I think the police costs, the off-site costs? Mayor pro tem, do you want to make an amendment in that regard?

>> Tovo: Yes, mayor. This was distributed on my amendments of last week. It's distributed on the yellow copy here today. Let's see. It was last week amendment five. It is this week amendment five. On the sheet from our staff, it is amendment five.

[10:35:25 AM]

And so this -- you know, as I see the deal generally, the first draft had the city absorbing quite a few costs for infrastructure and for site development and for other -- in other areas. The draft we have in front of us, the terms of agreement we have in front of us, does I think minimize those. Where I see the actual cost to the city, absolutely there's foregone revenue in the lease. There's foregone revenue with regard to property taxes. But in actual expenses to the city I see those in three areas. One is insurance, which it's my understanding from the answer that's we received back from staff is pretty typical, is in line with what we do with other entities we lease to. The other is remediation, which I know we'll have an opportunity to talk about here, but it is -- in my mind that's also -- hopefully we will incur no costs since we've already done remediation but it does seem like a cost the city is responsible for no matter what happens on this site. But the third area where there are still costs to the city in this agreement regard off-site costs. So this amendment would eliminate those. From the city's responsibility. My rationale is I don't believe we pay them for most other events that take place in our city parks and others. Although we do have relationships with spring festival. Most of the other events that take place in our facilities, our parks, bear their own costs. So this amendment strikes the line being understood that the city will be responsible for such off-site resources in respect of mls or professional soccer game or any event held at this stadium?

[10:37:26 AM]

>> Mayor Adler: It's been moved to make an amendment. Is there a second to the amendment? Councilmember Garza seconds that. Any discussion? Those in favor of this amendment please raise your hand. Those opposed. Flannigan voting no. Others voting aye. Councilmember pool off the dais. It passes. Nope. She's back.

>> Pool: Mayor corks tell me what the motion was?

>> Mayor Adler: Mayor pro tem amendment number 5. This says that expenses will be paid, police expenses will be paid by the team.

>> City of Austin law department. Striking that parenthetical doesn't actually accomplish what the mayor pro tem's intent was because that parenthetical basically just explains what is already laid out in that paragraph. So if you wanted to remove -- it's because it states to the extent that those are not related to mls events. But we understand the intent that you don't want that distinction anymore, so we'll make a change to that that accomplishes what we understand you want to carry out.

>> Mayor Adler: This is so the city doesn't pay for the off-site events associated with their event. Okay. I think that was understood. Did you want to vote yes?

>> Pool: I did.

>> Alter: With any events at all that are not city-run.

>> Pool: Do we need to retype the vote?

>> Mayor Adler: No no. You were coming in as I was announcing the vote and you're there.

>> Pool: Thank you.

>> Mayor Adler: Thank you. So at this point I think what's happened for me is there was a negotiation that our staff did to negotiate. There were a series of amendments that were submitted last week. In response to those amendments, in the discussions, the team agreed to -- and the league agreed to 16 of the amendments. Four of them partially.

[10:39:26 AM]

Maybe to one. And a no to 15. Which I appreciate as being considerable good faith gesture associated with the late amendments that came in. There were three issues that were significant and have involved a lot of conversation and I appreciate the team really trying to weigh and lean into those. Each of those represent real significant concessions even past last week. One of those is assuming the affordable housing coming in. Where the team has assumed that risk and is now not just making the property available, but is assuming the risk and is saying that the affordable housing will be -- will take place. The second one is the agreement with respect to the ancillary uses, which now gives the city absolute discretion in allowing any ancillary use. And then the last one is with respect to the only charge that was showing as against the city. I appreciate the team and the league, even at the last minute, as these were coming in last week, spending the time to work through these issues and to extend themselves. My hope is that as we move forward we preserve this deal and these economics so that the benefit that we get in this community of having this kind of activity is something that can actually be realized. So now let's go to further amendments. Councilmember Garza?

>> Garza: I think I found a solution to the earlier issue.

>> Mayor Adler: Okay.

>> Garza: I think that if we simply out of overabundance of caution what happens if they don't pay cap metro.

[10:41:36 AM]

But to your point if they don't do 2, they're in default and there's recourse.

>> Mayor Adler: Show me where you are. I'm sorry.

>> Garza: Page 3 of the latest term sheet, Garza amendment.

>> Mayor Adler: That's fine, okay, go ahead.

>> Garza: I think 2 accomplishes what much of the contract accomplishing in saying they have to pay this party, they have to pay this party, they have to pay this party. I think if we take out 3, the first sentence of 3, just the first sentence --

>> Mayor Adler: Okay. Investments transit, that sentence is gone. Three starts with the bullet in the next down square, the parties shall work together to develop a transportation, parking and event plan.

>> Mayor Adler: We just delete item 3.

>> Garza: No. Just the first sentence of 3. Because 3 continues further down.

>> Mayor Adler: So 3 would just begin the parties shall work together.

>> Garza: Yes.

>> Mayor Adler: Okay.

>> Garza: Just to clarify with law, doing that means if they don't -- if they do not give the money to cap metro they're in default?

>> Yes.

>> Garza: Okay. That's the amendment.

>> Mayor Adler: The Garza amendment is offered. Is there a second? Councilmember Casar seconds that. Is there any discussion?

>> Alter: Mayor?

>> Mayor Adler: Yes.

>> Alter: Can you tell me what happens exactly if they go into default and our options. One of the major concerns I have is the enforcement provisions. This is a case in point. We're saying if they don't do it they're in default. What can we actually do to them besides evicting them?

>> That is the ultimate hammer, especially since this agreement is supposed to be made pretty early in the term. I think that is the ultimate hammer. We could certainly talk about things like specific performance as we negotiate the termination provisions of the lease.

[10:43:41 AM]

But I think the ultimate hammer you have is to kick them out of a \$200 million investment for material breaches. And I think we would all consider not making this contribution to cap metro a material breach of the agreement.

>> Alter: So it's unenforceable if we won't want to kick them out once they're in?

>> Well, I don't know why you wouldn't want to kick them out if they refuse to honor this part of the agreement.

>> Alter: I guess I'm still concerned and numbers of lawyers have raised issues with the enforcement provisions. And I'm not sure exactly how we get there, but as we're negotiating the agreement there really do need to be some clear penalties that happen along the way short of eviction so that there's additional enforcement mechanisms there.

>> And we would certainly entertain any thoughts that you have on that, councilmember. If you invest the kind of money they're going to do to bring this team here, it's not just the stadium, it's all the costs in relocation. And they have -- they would not put at risk losing all of that investment over \$200,000 a year. I think that is the ultimate hammer, and you should wield it as you need to.

>> Mayor Adler: Yes, Mr. Flannigan.

>> Flannigan: So I think it's important for us to be willing to evict people that don't stand by their agreements. In the same way we should hold ourselves accountable to the agreements that we sign. And I think just making that very clear, we're going to -- we've gone through a lot of negotiation. There's still a little bit left to go. We're going to hold by our side and you're going to hold by your side. And if they don't, adios. But you'll have lost your \$200 million investment. I'll have lost all your expenses coming here. But at the end of the day, my responsibility is to the city and when you sign an agreement with the city, both sides are going to hold up their end of the bargain.

[10:45:52 AM]

>> Mayor Adler: Garza amendment has been moved and seconded. Further discussion? Councilmember alter.

>> Alter: I want to come back to the enforcement stuff later, but I do have a question and maybe the folks on cap metro can answer. As currently written it talks about the metrorail station as being adjacent to the site, which does not require them to provide land on the site for the station. So I think it should be the site and adjacent. Or otherwise if you can explain to me how just being adjacent to the site would provide a rail station in the future. And I have another question after that. I know that cap metro has right-of-way but I don't know if they require part of the site potentially.

>> Todd emmingson with cap metro. The agreement -- discussions we've had with Mr. Subtle are that they would design the site to accommodate a stadium. In prior discussions about using that site, we did develop a conceptual design for a rail station adjacent to the site. So ultimately they would -- as a rail station would be built on the cap metro right-of-way but also, obviously, to interface with the site would need to be designed into the site. And they have expressed their willingness to work with us in that regard.

>> Alter: So do you think the language "Adjacent to" is sufficient? Or would you prefer that it says "Site and adjacent"? I'm not trying to take up more but I don't want them to come back and say cap metro

has to pay them rent in order to be able to do that or we can't design the station because they have something else that they're doing in that portion of the site.

>> Well, I think our understanding is that we have a working agreement and we could make the future station work in an acceptable way.

[10:47:54 AM]

Based on that agreement.

>> Alter: That a written agreement or is that just a --

>> It's not a written agreement, other than -- you're right, it's a verbal agreement to work with us to design the site so that it could accommodate a rail station in the future.

>> Alter: Okay. I'm still concerned about how this plays out in the future. I don't know if -- Ms. Garza, if up any thoughts on that -- if you have any thoughts on that. It doesn't sound like it's any firmer than your previous concern in terms of how it's being addressed.

>> Garza: I think this is exactly what the concern was, in that we can't in this agreement bind cap metro to do anything. So, again, while I would love that language to be in there, we can't -- this is an agreement between the city and psv, not between cap metro and psv. I'm just grateful that we've opened the conversation that they were at the table and that we're getting them these investments.

>> Alter: But the term sheet says that the metrorail station -- the parties shall work together to explore third party and other financing sources for the construction of a new metro station adjacent to the site. It doesn't say at the site. It only says adjacent to the site.

>> Garza: It's my understanding cap metro is fine with that language.

>> Mayor Adler: My understanding is this is cap metro and it has designed to incorporate it if I'm willing to accept the cap metro language. It's been moved and seconded. Any further discussion.

>> Ater: I do have one more question of Mr. Hemmingson if I could finish my comments. I'm trying to understand and appreciate, councilmember Garza advocating for more funding for cap metro. I preferred your prior approach on the message board to this one. This really doesn't seem like it buys us very much. If you get \$200,000 installments of 3 million, there's not a whole lot you can do. One pedestrian light for people to cross is that amount of money.

[10:49:59 AM]

What can you actually buy with this money? Can you help me understand what this is going to get us in terms of improvement? That's my first question. Then my second question is probably not for cap metro, but is -- I'm very concerned about this money coming out of the tia. I do not believe there will be

any money left for the rest of the improvements out of the tia if they can request the money be applied to their tia.

>> Yes, ma'am. With regard to the first question, the 200,000 per year would be very useful and would like to recognize -- or thank the council and councilmember Garza in particular for making transit a part of this discussion. 200,000 a year we have yet to determine the exact use, but I think a logical use would be to add supplemental service to support additional riders we expect will use public transportation to and from games. With the funding for the expanded bus stops adjacent to the site and our metrorapid service, which runs right there or until the future right immediately adjacent to the site, we expect to move a lot of people on public transit and so 200,000 a year will help underwrite the cost of that additional service.

>> Alter: Okay. Some other staff member could address, if you take \$3 million out of a tia, how much money would be left for the other improvements that might be required by the event and transportation plan?

>> Garza: If I can address the backbone for that. Frankly, the ask was that it be credited and I said I couldn't agree to that or support that so that's why the language says "May be requested." It says they may request it. It doesn't say it's an automatic as councilmember Houston and I discussed ledger thing, it's that they can ask for it and city staff can say no.

>> Alter: Okay. I appreciate that clarification.

[10:52:00 AM]

>> Mayor Adler: Councilmember pool.

>> Pool: I have a couple of questions too, maybe Mr. Hemmingson can come back up. I wanted to ask Mr. Hemmingson and our staff, what about the safe crossing of the railroad tracks? For people who may be looking for parking and may be over on Donley or decker?

>> Yes, ma'am. With regard to crossing the tracking, our position is that crossing of tracks by pedestrians, bicycles, or vehicles is only at a roadway. So any crossing that's not at a roadway would not be something we could support.

>> Pool: And a roadway there is Rutland, right?

>> Colmer is just to the right there?

>> Pool: Came ser on the other side of Braker, right? So you'd also have to cross brake.

>> I don't have the geography completely memorized.

>> Pool: I think where the bus stop is right now at burnet and Rutland.

>> I'm sorry. I thought you were referring to rail.

>> Pool: I am. Because the rail is east of where -- of burnet. And it runs across Rutland.

>> Yes.

>> Pool: So -- and Rutland is south of Braker, so it's a lower-level street and you don't have to go through the big intersection at Burnet and Braker. So my thinking is the road crossing which you are saying is the one where Fra and you folks peg as the safe crossing is at Rutland.

>> Or Kramer.

>> Pool: Okay. So do we have -- and then this -- thank you for that. So no crossing at the rail station.

>> If there were a rail station, then I believe we could have -- work with a pedestrian crossing as we have with other rail stations. Absent a rail station, no pedestrian crossing other than at streets that are already existing.

[10:54:02 AM]

>> Pool: Okay. That's also an important point to make, which was part of why I was advocating for a rail station to be there, because I know people are going to want to cross at that point because it's the closest to where the stadium is sited on that --

>> Right.

>> Pool: On that land. So we need to keep in mind the careful crossing for people of all ages and abilities. So thank you for that. And that's something that really needs to be thought about and aimed for. And then I had a question -- I don't know if it's for PSV or staff, but if we need to have some kind of a crossing that either -- a tunnel underneath or an overpass -- actually, maybe it is for Mr. Hemmingson. Are there --

[laughter] You're getting your exercise. Are there rules in place for pedestrian crossings over rail lines or tunneled underneath them?

>> There absolutely are. Both are possible. Obviously not without a cost, but those are definitely options and can be done if the right-of-way on each side is available.

>> Pool: Okay. And so if it looks like we can't get a rail station maybe we could at least have some safe underpass or overpass at the area that is potentially closest to the stadium and, you know, where people might be choosing to park.

>> From Cap Metro's perspective, as long as they met the safety requirements and all the other specifications, I don't see that one being an issue.

>> Pool: Great it thanks so much. Then I had one additional question for staff on the tia.

>> Mayor Adler: Okay. Then we'll go to someone else.

>> Flannigan: Mr. Hemmingson sits down it's on this exact point if that's okay.

>> Pool: Sure, go ahead.

>> Casar: My understanding from conversations with cap metro is another option for safety might be that you just prohibit people from -- and this is not me putting my finger on the scale on which way you'd go, you'd either make it safe or you could potential prohibit people from --

>> Again, absent a rail station at that site we would prohibit it. It is extremely unsafe and against the law for pedestrians to cross a rail station -- a rail -- an active rail line that has both freight and passenger rail unless it's at a controlled intersection.

[10:56:13 AM]

>> Casar: Right. My understanding from y'all that's most likely the route you would pursue without a rail station?

>> Correct.

>> Casar: Got it.

>> Pool: Then the tia question I had for our staff, Mr. Good, thank you, we're talking about a tia, and to date the transportation impact analysis or assessments that I've seen from us are related to P.U.D.S and commercial development and so forth. And this is a stadium. Is it a different approach for a stadium because of the kind of traffic that it attracts or is it the same as the other tias that we have done?

>> Sure, Robert Goode, assistant city manager. It will be based on the uses and it will be based on the volumes and that's the analysis. It's the same general forms, just based on the traffic that's generated by the site.

>> Pool: It has different criteria to it.

>> Yeah.

>> Pool: Great. It would be important for us to see that tia as soon as possible.

>> Mayor Adler: Ms. Houston.

>> Pool: Do we have a circulation plan yet for the traffic ingress and egress and around the site?

>> That comes during the site development process. We don't have fully --

>> Pool: Thank you.

>> Mayor Adler: Ms. Houston.

>> Houston: Thank you, mayor, and councilmember Garza and I did in fact talk about her new number 3, second bullet, Precourt sports ventures may request the use of "May." And I understand that the city has the ability to say no, we will not accept this credit. If in fact the city does accept the credit who then would be responsible for any traffic mitigation?

>> Robert good, assistant city manager again. The reason we put in accordance with a priority of the traffic mitigation that we required of the tia is let's say the transit improvements are number 30 on the

list. They would have to do -- to get credit they wouldn't get credit if they hadn't done the 1 through 29. So that's the part of what councilmember Garza put in.

[10:58:13 AM]

It's staff's discretion to say that that credit for the transit improvements counts in the traffic mitigation. If it's not a high priority identified in the tia, then it wouldn't count for credit. If it is, it may. So it depends on where that comes out in the priority of the mitigation required in the tia.

>> Houston: Thank you for that explanation. And I understand that now, but the question is if they get credit one through 30 and they get credit, then who is responsible for the traffic mitigation? Does that fall back on the city?

>> Whatever is required by law, we only have a rough proportionality, their impact to the system. They have to provide the mitigation that impacts the system from their use. If they've done all that mitigation, whether it be other mitigation and they're complete, then we just have to pick up whatever is required, not from their impact, but other traffic impacts in the neighborhood it's still the city's responsibility.

>> Houston: So it could be the "May" does not impact the city or --

>> That's right.

>> Houston: But it could be the "May" might impact the city to complete some of these mitigation that's required.

>> Only if it's not required by their side, that's right.

>> Mayor Adler: The Garza amendment has been moved and seconded. Let's take a vote. Those in favor raise your hand? Those opposed, it's unanimous on the dais. Garza amendment comes in. By the way, if anybody is watching, that additional agreement from the soccer team and the league added another \$640,000 of immediate payment and another \$3 million on top of that. My belief at this point is that the city staff did I think an incredible job of negotiating this. This is the best deal of its kind I think in the country I think it delivers something that the city needs.

[11:00:19 AM]

I would be concerned about any other -- requesting any other concessions because I think that it's going to seriously impact the ability for this to be able to work. That said, I'm ready to have additional amendments considered. Councilmember Kitchen?

>> Kitchen: Well, I should let others go first. Remember I said I would hold that question until the end so I will wait and let others go first.

>> Mayor Adler: Okay. Amendments, councilmember alter.

>> Alter: So I would like to ask if as part of the enforcement mechanisms we have in this plan a performance bond as part of that. I'm still having trouble understanding how this is enforceable if stadium co is a shell and it's packed up by psv, but we don't have a performance bond to ensure things. So I'd like to make that amendment, but I need to clarify whether it's already in there or not. And if it's not in there, what is the extra surety that we have besides that you've reviewed their financial statements?

>> What you are asking is not in there. But we have not -- we have not finalized any of the termination provisions that would be in the lease, but that -- what you're proposing is not in the term sheet right now.

>> Alter: So I would like to propose an amendment to require a performance bond to be part of the enforcement mechanisms that are negotiated as part of the agreement.

>> Mayor Adler: There's been a motion for a performance bond, to include that. Is there a second to that? Councilmember pool? Councilmember Houston? Any discussion?

>> Kitchen: I have a question.

>> Mayor Adler: Councilmember kitchen.

>> Kitchen: I have a question. You've referred before to the things that typically go into a termination agreement and you've talked in terms of -- I think in terms of performance bonds, right?

[11:02:25 AM]

>> No, I have not.

>> Kitchen: Okay, all right. So the theying is -- -- thinking is -- I thought I heard you mention that there are additional things that need to go into the termination provision, right? In the discussion we had earlier today, we talked about the fact that just -- just requiring them to leave the property was sort of the ultimate enforcement. And that there are other enforcements short of that that could also be put into place in a termination clause, is that right?

>> Well, I mean, that is certainly something we can talk about with the team.

>> Kitchen: Okay.

>> To be honest with you, in most of the agreements that we have worked on in the past, most of the governing bodies have been very pleased with that hammer of terminating --

>> Kitchen: They've considered that enough, in other words?

>> Yeah.

>> Alter: I'm hearing from the community that there's a real concern about there not being a performance bond and that is risky for the city. Stadium co is going to have the one asset of the stadium. They're backed up by the club. If there's a recession, which is still possible, then, you know, it may not fly and we have no recourse then if it's just backed up by psv in that way and my understanding is that it would be a prudent financial step. I do not mean to suggest that that should be the only term that is part of the termination agreement or the enforcement mechanisms, but I would like a performance bond to be part of the enforcement mechanisms and the termination agreement.

>> Mayor Adler: It's been moved and seconded to add a performance bond. Is there any discussion? All those in favor please raise your hand? Troxclair, alter, kitchen, mayor pro tem, Houston and pool. Those are six votes. Those opposed raise your hand?

[11:04:27 AM]

It's the balance of the dais dais. That passes.

>> Alter: Garza was off.

>> Mayor Adler: Garza is off. It passes. Next amendment,.

>> Troxclair:.

-- Next amendment, troxclair.

>> Troxclair: Thank you. I just wanted the opportunity to talk for a moment about the rent and take a vote about whether or not there is another amount that might be more appropriate. So my amendment was troxclair 1 and it basically said that the annual site rental fee would be \$958,720, escalating at a rate of two percent annually. This number came about because it is half of what our real estate staff expects that the owner -- that an owner of this land would pay under the highest and best use according to tax appraisals from 2016. So if we -- if we entered into -- if we sold the land or entered into another agreement where somebody was willing to pay the full property taxes, they would be paying about two million dollars a year. This amendment cuts that -- I understand that that might not be feasible in this deal, but this is about half of that amount. Nearly a million dollars. And the one -- the two things really that I'm hearing of why people might oppose this deal is just not paying closer to full market value in property taxes or rent, and the parking situation. So those are the two things that I just want to take a moment to talk about. So I would like to move this amendment. And escalating at a rate of two percent annually I think is really reasonable. It's probably lower than -- it is lower than what property taxes across the city are escalating. So I still think this is a really incredible deal. They're basically getting more than 50% off.

[11:06:32 AM]

>> Mayor Adler: Move to increase the rent. Is there a second to that? I'm sorry? I can't hear you, Ms. Houston. It's been moved to increase the rent. Is there a second to that? Councilmember pool seconds that.

>> Pool: And I can speak to that.

>> Mayor Adler: Okay. Mr. Flannigan?

>> Flannigan: So I appreciate this -- the motion here. And as we heard from other potential projects for this site, which you might characterize as highest and best use, the reason why those projects generate more tax revenues is because they have more tenants. And I would love to see a lot more tax revenues come from this site, but at some point the math is the math. And we could pull a lot of numbers -- I could move to amend to make it an even bigger number, but the work that staff did in looking at the financials and the very hard work that we have very talented staff to do, I think came with a -- came to a number that's appropriate for a project that is a stadium. To compare a stadium project that has not fully built out the site with the contemplated project that did fully build out the site, which to be fair, I don't think the neighborhoods would support anyway, I don't think that's a fair comparison. So I'm not going to support the amendment, not because I think they shouldn't pay more money. I'd love for them to pay all the money, but I think as balance sheet equation, as a math equation, the number the staff came to is the right number.

>> Mayor Adler: I'm going to oppose the amendment as well. I think ultimately on the dais we have to decide if we want this project to happen. If we don't want it to happen, then I think we should just vote against the project. They're paying rent here on top of rent.

[11:08:33 AM]

They're paying \$640,000 now for transit. An additional \$3 million for buses. They're paying millions of dollars for boys and girls soccer. Any one of those dollars we could triple, we could quadruple rent if we wanted to and decrease the amount of money being spent in other places, but what we've said as a council is that we want to take the money that's available in this and we want it to go to these places. We've just had the team come in and I think dig beyond where frankly I thought they could in order to be able to deliver what seemed to be requested with respect to ancillary, the guarantee on affordable housing, the transit issue. I'm concerned that the additional cost now for performance bond means that this deal doesn't happen. And I think that that was a really -- I Thi that that alone, I don't know what that does from the cost of a performance bond, especially when we know that the custom and practice in the city isn't -- in these kinds of things is not to add that extra charge to a project like this, that it's not necessary given the guarantees that happened just by virtue of the size of the project and the investment that's being made. We've just added a cost that I hope we eventually reconsider. And this rent again would just be -- I mean, if we're going to vote no, we should just vote no. I think if we change the economics from where they were before, we're not giving the opportunity for this benefit to come into our community, and I just think that given who we are and where we are in this city and the challenges that we have with segregation that this is just something that we should be trying to help make work.

[11:10:45 AM]

Further discussion on the request to increase rent? Any further discussion? Councilmember troxclair.

>> Troxclair: So I guess in response to councilmember Flannigan's comments, I understand that if we're going to do a stadium there that this is maybe the highest rent that we can expect them to pay, but the reality is that we have to consider the opportunity costs of what the alternatives are. And so that -- you saying math is math, well, yeah, math is math and the reality of the math is that we have other proposals on the table that are willing to not just pay, you know, full amount in property taxes or rent, but are willing to put significantly more money into affordable housing, significantly more money into community and youth soccer and green spaces and to non-profit contributions and provide adequate parking. So it's hard -- if the choice is to do nothing with the land or have a stadium there, then it's probably a good idea to have the stadium there. But if the choice is to have the stadium there or to have something else there that is going to provide greater revenue to the city and greater community benefits, then it just has to be a part of our conversation. And I mean, I've been -- I have been -- I really have tried to come into this discussion with an open mind. I don't feel like I have been strongly in one camp or another. I wanted to hear all the arguments. I wanted to understand all of the possibilities. I have been -- I was a little surprised that the council wasn't more -- the council that I know that normally is very interested in proposals that are going to provide affordable housing and other community benefits, that when we were presented with alternatives that would do all these things, it didn't seem like we were taking any time or really serious discussion of them. And I just -- I guess I just don't -- that is a piece that is still missing for me.

[11:12:51 AM]

So if -- if I felt like -- if this amendment passes and we can get more parking there and we can at least get closer to the financials that another project would provide on this land, you know, then I think that there is something to be said for the culture and the economic development and the idea of a world class city having an mls soccer team would bring. And I'm willing to vote for -- to give them -- to give them a discount to compensate for all of those things that having mls soccer team here would bring. But where we are right now, the difference is just so dramatic. And I don't know if I have the ability to put this on the screen real quick, if somebody will help me. Anybody? Anybody? Okay, thank you. This is just something that I -- that my staff came up with pretty quickly and somebody might have something that's more accurate or more official, but this is kind of the back of the napkin comparison that I did. And I'm -- to me when you look at the numbers, when you look at the math, it's just such a significant -- we're giving up so much. We're getting a lot, no question, but we're giving up so much compared to the other things we could do on that property, it really gives me pause. I appreciate the dais and allowing me to take a vote on this issue and I do want just the chance to put this comparison up really quickly if they can figure it out.

>> Mayor Adler: Yes, Mr. Flannigan.

>> Flannigan: And councilmember troxclair, you and I often are in agreement in trying to make sure we maximize the tax values from the decisions that we make. And I think what I'm hearing is that our disagreement is that we don't have the same perspective on what the other opportunities realistically are. And when we have these other proposals presented that haven't been vetted by staff or really vetted by the community.

[11:14:55 AM]

And what I heard at the end was some talk of, well, the proposal people really liked was the park, which as you know, there was no money to fund and no money to operate and our parks department is already underfunded. So I think my perspective is not in agreement. I think it's more that I don't think the proposals that are cited as generating more tax revenues are actually ones that would ever get built. That's really what I think our difference is.

>> Alter: Mayor, I just wanted to point out, Mr. Flannigan made a comment earlier about how the mixed use would never happen. It's my understanding that there's a north burnet gateway plan that governs this property that has it laid out as a mixed use high density development. It already has that step forward in zoning and I don't think it's fair to say that it's not realistic that it would happen. It's exactly the kind of location that could support that type of density. And so I just want to -- I don't think it's fair to say that they want a park in that and they wouldn't want mixed use to go forward.

>> Kitchen: Mr. Mayor, could we take a vote on this?

>> Mayor Adler: Mr. Flannigan gets to reapply.

>> Flannigan: I reviewed the north burnet gateway plan and originally one of the participants emailed me making that same point and I clarified with him that in fact the property of mckalla is excluded from that plan as a whole as all of the public lands just like the pickle center and other public lands, they're actually not specifically noted in that plan what type of density or development would go there.

>> Mayor Adler: Let's take a vote.

>> Troxclair: Mayor, I just wanted community to be able to see that this is the decision we're faced with. I feel like it's been a really difficult one. I know it's really hard to read. So if it's okay I'll just read a couple of numbers to you. The affordable housing programs under this proposal is about \$4.8 million.

[11:16:57 AM]

Under others we've received it's 537,000,843 units. Community and youth soccer under this proposal is 10 million. Under other proposals it's 181 million or the 250,000 that doesn't compare very well. Green spaces under this proposal is 12 million. Under the other proposals is 87 million. Non-profit

contributions under this proposal is 20 million versus 268 million, 537 million. So it's just -- that has been too big of a void for me to be able to ignore. And so the comment about the community hasn't had time to vet the proposals and we don't know whether or not they're feasible. I would be happy to take the time to figure out if they're feasible and if they're not feasible then you could probably put me pretty strongly in the pro soccer column. But it's hard to say that we haven't had enough time -- that community hasn't had enough time to review the alternate proposals, but also to push for a vote on the soccer as soon as possible. I don't feel like I've been -- I don't feel like we've been given the opportunity to really compare apples to apples. With that said thank you for the opportunity to present this amendment and to take the vote on having them pay half of the property taxes that we would expect under the highest and best use for this property.

>> Renteria: Mayor?

>> Mayor Adler: Are we ready to take a vote.

>> Renteria: Yes. I want to make a quick comment. They're talking about all this development there. And there's not really opposition to the development. It was just a comment made when we had a housing special called meeting that they didn't want nothing there. So you've already got opposition for building anything there and we haven't even decided to build anything there.

>> Pool: Mayor, I had --

>> Mayor Adler: I'm sorry, Ms. Houston?

[11:18:58 AM]

>> Houston: Thank you, mayor. I was just going to say everybody has done a great deal and I can feel that everybody is getting real tense in the room. You can feel the tension. But when people say that nothing had been talked about for that land, that's not right because Capella said long ago they've been trying to work on this for a couple of years before now. So they were people trying to develop that that would include green space and affordable housing and mixed use. And so don't say that nobody was doing anything because that development company was in fact trying to do something.

>> Pool: Mayor, I wanted to speak to my second.

>> Mayor Adler: Okay.

>> Pool: Thanks. And yes, councilmember Houston is correct. In fact, the internal documents that I've seen, it was as late as a year ago, August of last year, when the draft rfp was laying on staff's desk somewhere in the city but wasn't transmitted or sent to the city councilmembers and certainly not my office, which I still regret. So it was prevented from surfacing where we could have considered the fact that there was a draft rfp ready to go to be issued right at the very beginning of the discussions about mckalla. Specifically to this amendment that is a part of the package that I and my four council co-sponsors had offered, I just wanted to recognize the fact that the other taxing entities in the county are also not at this table. So effectively our limitations on how much money Precourt will be paying to the city of Austin is sending exactly zero property taxes or lease payments to Travis county, to the central

health, to Austin community college, and certainly to the Austin independent school district, which is specifically affected in a negative way by this proposal.

[11:21:00 AM]

My original intent on increasing the rent was to get it closer to the 2-million-dollar market rate lease number, which our office of real estate had established. And I wanted to split that with the other governmental entities. That amendment has been rejected by Mr. Precourt. And I would like to -- you can go ahead and take that sheet down because I'm actually talking about a different sheet. The gentleman at the overhead. Thanks. And so I just want to make it really clear that we are forestalling the amount of other taxing entities in Travis county to benefit from this site in ways that would show up in the laboratories and in the hospital rooms and in the school rooms and so forth. So thank you. That is why I am seconding this amendment.

>> Kitchen: Mr. Mayor, can I make just one very, very short comment because I really want to get to a vote. I just can't let some of this stand. I mean, we obviously have disagreements of opinion on what to use this for, but just for informational, factual understanding of the public, when we put affordable housing on land, it's not always taxable. When we do other things with land, it's not always taxable. This particular land hasn't been taxed for years. So yes, it is appropriate for us to consider what we might be foregoing, but it's not appropriate to say that we are definitely foregoing taxes, nor is it appropriate to say that we are somehow not acting appropriately with the other governmental ambassador. So I think - - I just want to stay on the facts here.

>> Mayor Adler: I think that's true too. This probably hasn't been generating taxes. It's probable per use for affordable housing isn't going to generate taxes and we're not in the business of taking city owned land -- I think that we should be trying to take the city-owned land that has low basis and putting it to things that drive community benefits like affordable housing, and in this instance by giving something to the community again will help a community that has the specific segregation challenges that Austin has.

[11:23:23 AM]

And I texted yesterday with Nicole Connally, who is the chief financial officer for aid because there were emails that were going out talking about losses to aid. And she said that from their perspective it doesn't have a financial impact. She said, besides, any potential future revenue would largely benefit the state under the current recapture laws. That they weren't standing in the way of this deal. I just think that again, it's beginning to feel like we're going to try and talk this thing to death or amend it to death or question it to death. We have a really good deal and I hope that we can move forward and finish going through the amendments, see where there's sentiment to pass them or not. That would be my hope. It's been moved and seconded to talk about rent increase. Any further debate on that? Mayor pro tem.

>> Tovo: Not directly on that point, but since we've -- this discussion has moved into the discussion of real estate and how we work with our entities, I'll just remind the city manager and my colleagues that probably -- gosh, it may almost be two years ago now, I brought forward a resolution asking our staff to work with those other entities and develop a policy or practices. I know that we do work with our other entities to talk about real estate opportunities, but I really hope that we can -- I hope that we can beyond a good path moving forward with those entities. There were some properties that, for example, aid put up for sale that I think probably the highest and best use over time would have been not a -- not an immediate sale, but a different kind of project that would have benefited the community in different ways. So you know, I think we have a lot of conversations to have ahead of us with those other entities and I'm committed to continuing to see how we move forward. And again, we have direction to the city manager as a result of my amendment to ask for that work to happen and I hope we can as a council revisit that.

[11:25:26 AM]

The other thing I would say about real estate transactions, you know, we have conversations about this a lot, and to me I'm not terribly comfortable with our staff and our managers going out and negotiating with private developers in the development of a tract without bringing that to council first. So I think that's something -- when I heard about the Capella tract I was really surprised. I'm concerned that a discussion of that sort was really able to progress without the council having provided direction that that site should be sold. I understand that Capella reached out to the council and we haven't had an opportunity to recognize the facts. I will see what they have to offer. My point, and I'll yield to you, Mr. Canally, is we should figure out as a council and as a manager how we want those discussions to proceed.

>> Mayor Adler: There's been a motion --

>> Tovo: Mr. Canally, I think I may have said something that you wanted to clarify.

>> No, I think mayor pro tem we agree and understand that. In fact, earlier this year in response to those resolutions we presented to council a framework for redevelopment of city land and put a variety of tracts on that --

>> Mayor Adler: That's good information. Let's keep the debate right now on the rent increase amendment that is in front of us. It's been moved and seconded. Let's take a vote. Those in favor of the rent increase please, sir raise your hand? It is troxclair, alter, Houston and pool. Those opposed please raise your hand? It's the balance of the dais. It's defeated. Are there any other amendments to be brought?

>> Pool: Mayor, I have an amendment.

>> Mayor Adler: Hang on a second. Mayor pro tem.

>> Tovo: Yeah. And I'll say just quickly, I know that our intent was to try to get through this by 11:30. I'll just say for me we're not going to make that goal and I'm comfortable with that because I think that

everybody deserves an opportunity to air their amendments. I still have -- I still have multiple to make here and I don't think any of them are as complicated as the ones we've already addressed.

[11:27:27 AM]

I want to say I think it was referred to earlier that these are the ones that came through last week were late amendments and I just want to correct that in case anybody was listening. That was our first opportunity to make amendments on the term sheet so they're not late amendments. They came forward at just the very first opportunity that we had to make them.

>> Mayor Adler: So pick one and I'll recognize you on that and then I will go to someone else.

>> Tovo: That sounds good. Okay. The number -- I'll just go in order. Well, no, I won't. 7, I proposed language about keeping the public open -- the space outside the stadium open to public access when the stadium and site are not holding scheduled events. The stadium, Precourt, has accepted that language. As I indicated on the dais, I was interested in clarifying -- we had a good exchange about the interest in preserving as much access to the trails and whatnot in that area even when scheduled events are taking place. And so on my yellow sheet today under item 7, I am proposing to add a line about stadium co should use best efforts to design the site in a way that allows public access to trails and as much as the grounds as possible when a scheduled event is taking place outside. I know I've presented this to -- I've given a copy to Precourt or his representative. I don't know if they have a want to respond at some other point. This again isn't mandating that the site be cancel during scheduled events. It's simply saying -- capturing what I thought we had agreement on last week in the course of conversation, which is that even when there are events going on, you're going to work hard to see if you can provide a secure way for people to access the trails. Mayor, do you want me to check in with them now?

[11:29:28 AM]

>> Mayor Adler: Yes. This is the best -- you said you were going to keep it open if it doesn't conflict. This is saying use your best efforts to design it to maximize those opportunities.

>> Mayor, members of council, mayor pro tem. We can accept that amendment. We would ask that best efforts be changed to reasonable efforts. Best efforts is a term of art and reasonable efforts then we can take the amendment.

>> Tovo: Okay, I'm

>> Mayor Adler: Any objection to that amendment being included? Hearing none, that amendment is included. Anyone else have an amendment to bring up? Councilmember alter.

>> Alter: Yes. I would like to move the amendment that I had, alter 1, that the city shall be responsible for the remediation and any necessary mediation activities arising from the existing or environmental conditions up to a total of \$500,000. I understand that our staff is saying that the likely number is zero

and I'm having a hard time understanding why they can't agree to a cap of \$500,000 if the risk is in fact that low, but I think our taxpayers deserve to have that risk mitigated, and if it's in fact zero, I'm not sure why that's a difficult thing to agree to.

>> Mayor Adler: It's been moved, alter 1. Is there a second to alter 1? Councilmember pool seconds it. I'm going oppose this. For two reasons. The first is that in a real estate transaction it's customary that the selling entity delivers the property with that work already done. If we were buying property as a city we would insist that that work already be done. That's how -- that's what would be expected in this situation. And then it's further buttressed by the fact that our staff has indicated that this tract has already been remediated extensively because of the environmental issue that previously existed. Any further discussion on this alter amendment 1? Councilmember alter.

>> Alter: I just want to point out that it's my understanding in the Miami area that take taking care of the site remediation and there's zero risk to Miami in that case, which is another deal.

[11:31:38 AM]

I don't know how customary that is.

>> Mayor Adler: Mr. Flannigan.

>> Flannigan: So I think if we're going to start citing other stadium deals, I think it's important to note that the Miami deal is substantially different than this in its size and scope. And if we had however many acres, 70 some-odd acres that we were going to allow a very high dense development, then it would then be like the Miami deal, but we don't have a Miami deal because we are not contemplating the development of 70 some-odd acres.

[Applause].

>> Mayor Adler: Any further discussion on this before we take a vote? Those in fav of this amendment please raise your hand? Troxclair, alter, Houston, pool. Those opposed please raise your hand? It's a balance of the dais. It does not pass. Any further amendments?

>> Houston: Mayor? May I ask a question.

>> Mayor Adler: Ms. Houston.

>> Houston: This is not an amendment, but a question. As mayor pro tem said, we're not going to get through with this by 12 and it feels like it's labor intensive. Why don't we just cast a vote up or down and then see where everybody is? Because it's -- [applause]. You know, I just think that we're basting a lot of people's -- wasting a lot of people's time by going through these amendments one by one when -- take a straw vote if we're not taking a real vote. So do we keep going through the amendments? Because we've got a lot of amendments still to go through.

>> Mayor Adler: Yes -- I'm sorry, Mr. Renteria. Okay. Mayor pro tem.

>> Tovo: I just really can't agree to that. You know, we didn't have time to talk about them last week. We've put them forward. We got responses back last night about some of these. I mean, I just offered you an example where there's no controversy, but it's an important component to include. And so I just -- I think it is -- I would just urge my colleagues to respect the process, to respect the public, to respect the parties, including our staff and others who have worked hard on this.

[11:33:43 AM]

This has been a long effort. Please let's take the time we need to run through the amendments that our colleagues have brought forward.

>> Mayor Adler: Councilmember kitchen.

>> Kitchen: Well, I was just going to say I don't have a problem with that. I mistakenly thought that perhaps we might finish by noon. So mistakenly planned something, which now I'm going to obviously have to cancel.

>> Mayor Adler: Let's do this. Let's see -- we've moved through the last couple quickly. I'm going to call in a second for those amendments where people think there would be agreement as on your last amendment. Let's see if we can get some of those done and see how quickly we can move through. I think on an amendment it's like increasing the amount of rent we don't have to discuss them very long because the votes aren't going to be there to pass them. Then maybe there's a way for us to see which ones might actually be able to be handled by agreement and then maybe those that we know aren't going to pass we can handle as a group. So mayor pro tem, I'm going recognize you to see if there are other amendments that you have that you think fall into that category.

>> Tovo: Sure. And I have a couple that will require more conversation --

>> Mayor Adler: Let's first handle the other ones.

>> Tovo: Number 2 on the sheet, this was a partial agreement. I think there may be misunderstanding about what I was asking for. This is about using local -- local vendors, goods and labor. I had a line in there that they did not accept saying in the final agreement stadium co should provide a detailed methodology for how local vendors will be prioritized in the selection process. The answer came back methodology and implementation shall be determined by the club. Psv must ultimately retain control over its operations. My language didn't say it needed to be approved. I'm just saying that I want our staff to review a plan -- I want to know that you have a plan for how you're going to solicit local goods, vendors and labor.

[11:35:50 AM]

So I was asking that you spend some time putting details into what that methodology and what your practice is going to be, and that become part of the final agreement. So it would seem to me that that's

not controversial. You know, if you're saying you're going to use best efforts to do it, and I think the term was best efforts in there -- yes. Emphasis -- no, it's not. It's emphasis shall be given. But I'd like to know -- I'd like to know that there's a plan for that emphasis, for how that emphasis going to be put into practice. I see they're discussing so we can come back to that. But I would hope that there would be no issue there. Um, so I'll move on to the trail.

>> Mayor Adler: Hang on a second. So as I understand it, this is just the team just providing in essence notice to the city of what its plan is. It's not --

>> Tovo: That's right.

>> Mayor Adler: It's not something that the city reviews or evaluates or holds on to.

>> Tovo: Well, I would expect there to be conversation, but I'm not asking for city signoff on it. I'm just ensuring that -- as we know, if there's no plan, it's less likely to happen. If you take the time to do -- to provide some description about what your practice is going to be, I think -- I think that advances what we're trying to do, which is to get as many local vendors on site.

>> Mayor pro tem, there's -- we have best efforts that we're going to do this. We are having discussions now about putting detailed staffing plans into an agreement that is probably going to be public. So I'm going to let Dan Baird answer that because I think -- I think the intent is fine, but putting a detailed operational plan of one business in an agreement that's going to be --

>> Tovo: That's not really what I'm asking for. I just want a description of what your plan is going to be for reaching out to local vendors for utilizing local resources, for trying to ensure that the goods that are used on-site as much as possible are locally sourced.

[11:38:08 AM]

>> Stewart [indiscernible], the city of Austin law department.

>> Tovo: Not detailed staffing plans, by no means.

>> Could I suggest that you strike in the final agreement and just require that stadium co provide the city -- because they might not know all of that at the time that the final agreement is executed -- negotiated and executed.

>> Mayor Adler: And that way they still have to do the plan. It's consistent --

>> Tovo: What would you suggest as a time frame? I can see now that you've identified that, I can see why it may have suggested that it was part of the -- that it was going to be written into the terms, which wasn't my -- which wasn't my intent. But I would want it to happen in a meaningful -- at a meaningful time because otherwise, you know, they could be far down the process of hiring, constructing and whatnot before they get around to constructing the plan for how we're going to try do that with local resources. So --

>> Mayor Adler: Richard? So the question -- the question that the mayor pro tem -- I don't know if you're hearing. So if the language was taken out in the final agreement, and it just provides that stadium co shall provide the city with a plan and methodology for how it's going to do that --

>> Tovo: What about by the time of the final agreement?

>> Mayor Adler: The last question she had, did you say you could do that before construction started or something? But then it's a plan, it's not part of the agreement?

>> Tovo: Mayor, if I may. I don't intend for it to be a part of the final agreement, but I think it's appropriate that it be done extremely early in the process and I would think -- I would think now is the time. So what about by the time of the final agreement? That you will have some -- some description of what your methodology and practices are going to be.

>> I have a question. Is the intent that it cover construction labor or -- this is in the vendor agreement section.

[11:40:10 AM]

Is this in reference to stadium operations or construction or both? Because my understanding was in the vendor agreement section you would be referencing concession airs and things like that and the products that were able to consumers at that point and labor that was used there. So if that was the case we could say, you know, six months prior to operations or something like that. But I'm not sure what the intent behind the changes and how broad the scope might be.

>> Tovo: And is really was intended to be rather broad. I mean, we've heard requests that, for example, they try to use as much as possible local vendors in terms of merchandise sales, local vendors in terms of on-site food that might be offered. And so it really was not just about construction, it really is about goods and products that might be sold on time -- on site. So again, I think some of that needs to be done earlier. I'm happy to return on this if you want to propose -- I think now that I've had an opportunity to lay it out, maybe you have a better sense of what I'm trying to achieve and can work up some language that might be -- might capture that.

>> Maybe we could say prior to selection of the relevant vendors, labor and goods, something like that? Or if the intent is just to lay that out prior to actually moving forward with those contracts for those -- for that labor or the vendors.

>> Tovo: I'm comfortable with that. It would seem to me --

>> Mayor Adler: Let's get Mr. Baird to speak to this --

>> Tovo: I just want to respond to the question that our attorney asked. I probably am comfortable with that. I think the -- it would seem to me the most efficient way to do that would be to provide some description before the stadium agreement is executed.

>> Mr. Barrett?

>> Dan Barrett from CAA sports. Thank you, mayor and council, for letting me talk. I want to say for the record that psv is 100% in support of local vendors, contractors, both in terms of construction, as well as during operations.

[11:42:19 AM]

We think this is a critical element to make the project a success, not only during the construction period, but during the operating period. The issue and the challenge that we have is that it's a little bit premature because we don't even have an agreement yet so we haven't worked on what those plans are going to look like. There's other language in the agreement that specifically references local vendors for construction and the process that we would go through through councilmember Casar's language that we implemented early on in the process. And what we would commit to and be willing to do as opposed to this language is that we would address this in lease and development agreement and you have our commitment that we would do that in a way that protects the operating integrity of the team because we can't come out and say, okay, we're going to have a plan for X restaurants in the stadium that will be local versus non-local. We just don't know that and we can't make those types of commitments. So the concern is we don't want to make promises that we can't keep or that we can't enforce at the end of the day. So our commitment is to do this both on construction and operations. Our request would be we've got best efforts in here to use them. We've got emphasis that they will be on local vendors. Best efforts is a very strong requirement as we just talked about in the prior provision, and we're committed to do and we would flush that out in a lease and development agreement.

>> Tovo: So you're saying at a -- what is the -- what in your mind is a lease and development agreement? Not the stadium agreement that --

>> In the term sheet it's referenced as the stadium lease and development agreement I think is the language.

>> Tovo: That was exactly what I was asking for.

>> Right, but I just want to set the expectation that we can't put a specific plan in that agreement. What we can talk about is the approach that we would generally use to get there. And one of the areas we talked about setting up a committee, maybe we work with staff or something like that to get to a development and process that you're satisfied with in the agreement.

[11:44:33 AM]

>> Tovo: I think in essence we're talking about exactly the same thing. What I was asking for is by the time of the -- by the time you're sitting down to execute the stadium agreement, if this passes today, you can provide the staff with some level of description about what your process is going to be like in those areas. And it sounds like that's what you're describing as well.

>> I think from a process standpoint we can. From a methodology standpoint, a detailed plan of methodology is where we have concerns with the language.

>> Tovo: Okay. Give me a minute to propose something else then.

>> Sorry?

>> Tovo: I said give me a minute then to propose something.

>> How about stadium co -- I can try some language if you like. Stadium co shall work with the city to develop a process on how local vendors will be prioritized in the selection process.

>> Tovo: Um, say that last part again, a process and?

>> Stadium co shall work with the city to develop a process and then the rest is the same for how local vendors will be prioritized in the selection process.

>> Tovo: That's fine. I think we're talking about the same period.

>> Prior to opening of the stadium for operations, prior -- stadium agreement would be in the stadium agreement.

>> Tovo: I have in the final agreement, and by that I was talking about the stadium agreement. I think you're talking about it too. Can we say by the time of the stadium agreement?

>> And councilmember, to clarify something, because there was some confusion on what stadium agreements meant, was that one or many? We took that out and had lease and development agreement as the final document that was being --

>> Tovo: I'm sorry, I'm using old language.

[11:46:36 AM]

>> That's the reason it's now described as a lease and development agreement.

>> That's the one that I want -- I want you to have finished this by the time of the lease and development agreement.

>> So what we would propose to you is that on construction yes, we'll do that. On operations we want to have prior to stadium opening. That would be in the stadium agreement that it will be done by the time the stadium opens. So that gives us some time to develop that plan to go out and implement. We don't think in the next 30, 60, 90 days that we're going to know our exact operating plan going forward.

>> Tovo: Can we at a six months --

>> Six months prior, that's fine.

>> Tovo: At some point it becomes a moot point if you've already hired vendors.

>> Mayor Adler: So the mayor pro tem has offered an amendment on this point number 2, which basically says that six months -- that the lease and development agreement will provide that six months prior to the opening of the stadium the -- there will be a process that's developed. A process will be developed for determining --

>> Tovo: [Inaudible].

>> Mayor Adler: Okay.

>> Tovo: In the selection process.

>> Mayor Adler: Seconded by councilmember pool. Any further discussion? All those in favor please raise your hand? Those opposed? It's unanimous on the dais. It passes. Any other amendments before we vote on this? Councilmember pool.

>> Pool: A revision to my earlier amendment number 4, so it's a substitute. And it's a piece of white paper that says pool amendment number 4. Substitute maintaining control over public infrastructure. Originally I had struck that entire section about being able to put did he Kales and low -- did he cal's and logos on manhole covers and signage and so forth.

[11:48:38 AM]

I have amended that to allow it, but to narrow it down so that it can be done on certain structures and on sidewalks, lighting and signage structures, which was already in their term sheet. And then I've removed manhole covers and fire hydrants and then added the city agrees to cooperate with stadium co to secure any and all permits and then added in review and comment by the city's equity office on emblems that may be placed on city-owned public infrastructure to ensure that any branding that might be happening does not in any ways cause problems for our city. And I will speak to that if I get a second.

>> Mayor Adler: Is there a second to pool amendment number 4 substitute? Councilmember pool.

>> Pool: What I wanted to say is we're agreeing to allow to brand the public infrastructure with mls and sponsored logos and it's the sidewalks, lighting and signage structures, about concerns over a special agreement that broadly requires the city to cooperate in allowing a private company to monetize public infrastructure without proper checks and balances. Additionally I believe that such broad agreement poses risks to the city. For instance, one of the Columbus crew's current sponsors, papa John's, recently faced public backlash regarding statements their chairman had made. The original amendment struck the branding provision in its entirety. Psv indicates they're not amenable that amendment as written because the site has limited roadway frontage and they would like to have more visibility for sponsorship and branding purposes. And I agree they have limited roadway frontage. So to address the concerns over the public infrastructure while still accounting for psv's desire for visibility, the substitute amendment retains the existing branding language, but tightens it to include the condition that the city agrees to pop rate reasonably with stadium co to get the necessary approvals.

[11:50:48 AM]

It removes references to infrastructure that has limited connection to visibility like a manhole cover and a fire hydrant. And provides for review and comment by the city's equity office during the approvals process. I don't want to find us in a situation where we have a sponsor who has issued objectionable language and the city of Austin would be prohibited from removing that objectionable logo or did decal from public infrastructure.

>> Mayor Adler: It's been moved and seconded. I'm going to vote against this. I want it this to be successful. It has limited visibility. I think putting the team logo or something on manhole covers or fire hydrants would add to the experience. And I think that if it's deemed that it's something that helps us work well, then I think we should support it. I don't think that we have to add the word reasonably because it's always assumed the city is going to act reasonably as opposed to acting unreasonably. I don't think the comment about city's equity office needing to review it is necessary or appropriate. Is there further discussion?

>> Flannigan: Mayor?

>> Mayor Adler: Yes, Mr. Flannigan.

>> Flannigan: I tend to agree with you, mayor. And I think any time that the city is engaging in a conversation, we are exploring with the equity office can happy. I think it kind of falls under the thing we talked about earlier where if you cite it in one place it necessarily excludes it from other places. I think it's reasonably assumed that the equity office is going to be engaged. Just in the same way that the site is going to have to comply with all of our development regulations, sign regulations, other regulations and we don't have to cite that specifically because it applies to the entire agreement. So I'll join you in opposition not because I disagree with the councilmember's desire. I think it's a fair point. But I think it happens in the context of the entire agreement.

>> Mayor Adler: Further discussion on substitute number 4.

[11:52:50 AM]

Mr. Casar.

>> Casar: I think it's here that it's contemplating that the branding is not corporate sponsorship branding, but instead team and.

>> That's correct.

>> Casar: Ultimately this is not about any private sponsor of the team being able to put their branding, but instead for us to be able to ensure the experience of the game -- that this is a partnership between the city and the team. It looks like city legal has something to say.

>> Stewart Riley again with the city law department. It does include a statement at the end that says it being understood that such materials may include branding from club sponsors, naming rights, partner or Jersey sponsor. I believe the intent there was if it's -- if the stadium has a name, you know, there might need to be the -- that corporate naming rights partner's name on something. This doesn't obligate us to allow this to happen T means we would reasonably cooperate as the landowner to for the applications for them to do this stuff.

>> They can't just show up and paint whatever they want on a manhole cover.

>> Right.

>> Casar: In that case I would feel comfortable leaving the agreement the way that it is. And I seconded councilmember Flannigan's comment that we need to leave our decisions on, including what to paint on things, to equity and inclusion. And since we are still in these nascent stages of having an equity office, I have Stearns about us using that in different kinds of amendments to imply that we would be putting somebody that said such horrible things like the papa John's guy being painted on our stuff, as if we would ever let that happen in Austin and that this entire dais wouldn't be doing something about it.

[11:55:09 AM]

>> Mayor Adler: Any further discussion on this item? Ms. Houston?

>> Houston: Yes. And I think this is a staff question. As far as -- I'm sorry, I keep looking for who is going to get up next. As far as painting logos on manhole covers and fire hydrants, have we verified that this is okay with our sign ordinance in the land development code? Because I don't know that we have that ability anywhere else. So how will that be handled? That came up during the codenext is that that was a part of the land development code that has been in place and we weren't putting signs everywhere. So how do we make that okay.

>> Nothing in here would circumvent the sign ordinance. So anything -- anything that's contemplated in here that could be done would still have to meet those requirements as well.

>> Houston: And you've run it past the fire department so it's okay to put logos on their fire hydrants?

>> That could be a discussion. I don't know if those discussions with taken place yet, but obviously if that's not possible, it's not possible.

>> Houston: Okay.

>> Mayor Adler: Anything else on this? Councilmember alter and then let's take a vote.

>> Alter: This is a question for staff to follow on Mr. Casar's comments. It's my understanding that we've relinquished all rights to the stadium name, so what control do we have that they don't name it papa John's stadium? I would like to understand that, how that's in the agreement.

>> Councilmember, the -- that is true that the team has negotiated to have the rights to name the stadium and have sponsors in the building. The lease and development agreement will have certain

restrictions on what those names could be, can't be pornographic or they can't use the name of another city, things like that. So there will be some restrictions in the lease and development agreement as to what they can name it.

[11:57:09 AM]

But those are some pretty broad categories. They'll have some autonomy on who they can ask to be a naming rights sponsor.

>> Alter: Okay. I can see we won't have the vote, but that makes me uncomfortable.

>> Mayor Adler: Let's take a vote. Those in favor of pool amendment number 4, those in favor raise your hand? It does not pass. Any other amendments before we vote? Mayor pro tem?

>> Tovo: Yes. On the Leed certification, which is number of on your sheet, I would like to -- number 6 on our sheet, I would like to add in the words "To work to achieve a minimum of gold certification." Just a minimum. And this is captured on my yellow sheet. I don't want them to feel that that's the -- highest. It doesn't measurably change the standard we're putting, it just says please achieve -- what I'm trying to convey is please achieve platinum status if that's achievable.

>> Mayor Adler: Work to achieve.

>> Minimum of gold, you meant minimum of silver, correct?

>> Tovo: No, the amendment has on here.

-- The amendment as accepted that we added in earlier -- let me clarify. It currently says the stadium will achieve at a minimum a U.S. Green building council leadership and energy in environmental design Leed silver certification. So is that the minimum. And then the next sentence, which we added in this morning, says in the 69 phase stadium co will collaborate with the city's sustainability office to work to achieve a gold certification or a three star.

>> Yes.

>> Tovo: All

>> That's already in the main motion.

>> Mayor Adler: It is.

>> Tovo: It is now I'm adding in work to achieve a minimum of a gold certification.

>> Mayor Adler: It's adding minimum a second time.

[11:59:10 AM]

>> Yes.

>> Mayor Adler: Any objection to that amendment, included? Hearing none, it's included. Thank you. Do you have another one like that, mayor pro tem.

>> Tovo: Yes.

>> Mayor Adler: You're on a roll.

>> Tovo: Yes, I am. I have three more. I hope they'll all be as easy. On the trail, after last Thursday, so we have added this in this morning, and that is item 4. And it talks about stadium co working to connect that trail. This came up a little earlier. I would like to add in language -- we went back and talked with the staff. We talked with our active transportation staff just to clarify how that would connect, and, again, they're exploring connectivity, and so my amendment as captured here on 4 would ask them, with one exception, I'll stick with the same language, explore constructing, it will say the developer shall conduct with urban trail staff and active transportation staff to explore constructing the tier 1 trail connecting to Braker lane to 1014 mckalla place site including crossing over the rail line, which gets to what councilmember pool I think was asking about earlier, to provide connectivity to the adjacent neighborhood as well as any other connectivity opportunities that would maximize bicycle and pedestrian access to the site. The sheet that you all have says "To construct." I'm willing to have it be exploring constructing. It just offers more details about where those opportunities are for connectivity.

>> Mayor Adler: It's your 4 but changing it to explore.

>> Tovo: Constructing.

>> Mayor Adler: Constructing.

>> Tovo: And so it would substitute in for what we adopted earlier with -- before we had psv shall explore conducting the mckalla site to the connecting walnut creek trail.

[12:01:16 PM]

We worked with staff to offer language that would flesh out that piece. And maybe there's someone from active transportation here to say whether or not this --

>> I want to clarify, is this amendment to the term sheet or to the sustainability? You're --

>> Tovo: Yeah it's to the term sheet. Right now it is called out in the term sheet and I'd like to keep it there with this additional level of detail.

>> Got it.

>> Tovo: Thank you for the clarification.

>> Mayor Adler: So in the term sheet, is that what --

>> Tovo: And, you know --

>> Mayor Adler: Tovo number 4 in the last column, tovo number 4 in the last couple to the right we added psv shall explore connecting mckalla site to the northern walnut creek trail. What you're proposing is to take out that line and to put this N this -- in this language instead.

>> Tovo: Or we could just add it. It's really just detail for that first line.

>> Mayor Adler: Okay.

>> Mayor pro tem, council, so we're catching this on the fly but as we understand it, you're asking us to explore these and if they're feasible explore them, but there's no -- there's no financial that we have to do it -- we explore, in other words.

>> Tovo: Yes.

>> Yes.

>> Tovo: I would urge you to explore it as diligently as possible.

>> In Ernest, exactly.

>> Tovo: To make sure people can get to the site via bicycle and walking. To topple over.

>> Tovo: There's not a fiscal impact at this point.

>> If there's no fiscal impact we'll explore it and it's a good I think.

>> Mayor Adler: Mr. Burnet, did you want to say something?

>> Dan wants to know can we take out the word "If feasible"? Because "Feasible" could mean if it costs a lot of money but it's feasible if it costs a lot of money you could do it.

[12:03:21 PM]

>> Tovo: You're still exploring it so it makes no meaningful difference.

>> Mayor Adler: So let's strike if feasible then because you're exploring it, regardless of whether it's feasible or not. Taking out if feasible.

>> Flannigan: The rest of that sentence at grade crossing over the rail line, "At grade crossing" would be on the rail line as opposed to a grade separated crossing which would be over or under. My preference would be take out that middle clause entirely because of the conversation we had request with earlier about rail crossings. So it would just say the mckalla place site as well as any other connectivity opportunities. Because the rail crossing is as much about cap metro as it is about anything else.

>> Mayor Adler: Well, since we're into the going to allow anything that's at grade, we would say at grade separating crosses.

>> Tovo: That's fine. Serve working rather quickly.

>> Mayor Adler: That's fine. So it's going to add the word "Exploring," active transportation staff to explore constructing. Third line down says "Including." Strike the word "If feasible." And add "Separated" between grade and crossing. Any objection to that being included? Hearing none, that's included. Any other amendments before we vote?

>> Tovo: Yes.

>> Excuse me.

>> Mayor Adler: Yes?

>> [Off mic]

>> Before we move on I wanted to recognize that that -- because it was in another place it talked about the developer but right now what you're -- since it's in the term sheet it will say stadium co. Because that's who will be responsible for doing it.

>> Tovo: Yes, thank you for that clarification.

>> Mayor Adler: Okay. Any other amendments before we stop? Mayor pro tem, do you have many more amendments?

>> Tovo: I have a bunch.

>> Kitchen: Mayor pro tem, how many more do you have?

>> Tovo: Let's see.

>> Kitchen: I'm just wondering if --

>> Tovo: Mayor, did you --

>> Pool: Did U -- did you want us to vote hang on a second.

[12:05:26 PM]

>> Pool: We haven't voted this one.

>> Mayor Adler: There was no objection?

>> Pool: Thank you.

>> Kitchen: Again, it's the will of the dais. We're having to spend a lot of time back and forth wordsmithing which is fine if that's what the dais wants to do. I'm wondering if some kind of break might speed up the process.

>> Tovo: Well, mayor, if I may.

>> Mayor Adler: Yes.

>> Tovo: I think part of the challenge here is that we're wordsmithing because we put forward amendments and then we got responses last night and now we're trying to figure out where it is in the middle. So it's just a challenging process. I'm happy to take a break and come back. I can kind of quickly tell you what I see as my amendments coming forward.

>> Mayor Adler: What you do see as your amendments coming forward?

>> Tovo: And I don't know if anyone else has additional --

>> Mayor Adler: I'll ask for that in a second.

>> Tovo: I'm working off of three documents now, so okay. In number 1, we have -- it was a partial and it did not enfold the sustainability terms. My motion will be to own fold the sustainability terms that we received from our sustainability office. And I have suggested just a couple edits to that, and that was distributed on the dais. I've also left some extra copies with the clerk. So the motion will be to enfold those.

>> Mayor Adler: Okay.

>> Tovo: I have amendment 3 but I'm fine, we don't need to do that one. With regard to number 9, stadium co has indicated they can't do that. I'd like them to consider language that would say "Will endeavor" -- let's see. "Shall endeavor to provide free live outdoor screenings when weather permits and especially in instances when games have sold out."

[12:07:32 PM]

So that's my new proposal on that one. With regard to 10b, I have a new amendment since there were apparently concerns about the wetland delineator. I have instead introduced amendment number 12, directing stadium co or the city, whoever the appropriate body will be, depending on the time frame, to request a preapplication consultation with the U.S. Corps of engineers. With 11a, we're all in agreement. However, there's an edit that I need clarification on. I think it's just a language issue. I think we still want to ensure that the thousand -- that the tickets, that the thousand per game tickets, are going to be going to -- let me take a look at that one. That one may be fine?

>> Mayor Adler: Okay.

>> Tovo: There's not -- I don't think we have a substantial issue there.

>> Mayor Adler: Okay.

>> Tovo: I somewhat prefer girls and boys to have an apostrophe. That was the substance of my other amendments there. Let's see. Then I have a couple that are not on the page. I want to clarify that -- I want to clarify -- and I intend to read this into the record as a motion -- that any application submitted for development shall be current code on the date of application. And I can talk more about that.

>> Mayor Adler: You just did.

>> Tovo: That's the intent. But I don't want to get into a situation where there are any grandfathering claims, grandfathering them back to older sections of the code.

>> Mayor Adler: I understand that one. Any other amendments that you intend to bring?

>> Tovo: I need to regroup but I think that's the -- no, I'm sorry.

[12:09:32 PM]

There are. Let's see. I think those are the main ones.

>> Mayor Adler: Okay.

>> Tovo: I need to just reflect because there were some other things changing but I think that captures the subset.

>> Mayor Adler: I'm keep trying to get to the budget stuff that we had. Is anyone else going to bring any other independently yes, councilmember pool.

>> Pool: I wanted to withdraw amendments 5 and 6 because we've already talked about them so we can take them off the list. And then I have a question on -- on mayor pro tem's item number 9. I just wanted to get a sense about blackout dates and how that works because we're talking about hopefully screening the events outside on a big screen if they're sold out. So what about if you're at home, you can't get to the site, what is the standard application in mls and with the local TV stations with regard to blackout dates.

>> Mayor Adler: Okay. Mayor pro tem is going to bring -- we're trying to gauge inventory, what we have here. Mayor pro tem has identified the amendments she's going to bring. You want to have a discussion -- or information about blackout dates.

>> Pool: Yes.

>> Mayor Adler: Anyone going to urge any other independently okay. Then we get to a vote. Not about the substance yet because I'm doing inventory of the issues. You have some other things you wanted to daylight that you're going to bring up?

>> Tovo: Mayor, I think that councilmember pool was wanting to talk about amendment 8, which I had put on the list but I don't -- I don't intend to put forward in that fashion.

>> Mayor Adler: Okay.

>> Tovo: I just want to be clear on that.

>> Pool: Yes. Mine is a request for information.

>> Mayor Adler: Just about blackout dates. I understand that. Ms. Houston.

>> Houston: I don't have an amendment but I have a question for watershed regarding the flood risk in the area.

>> Mayor Adler: Okay. We'll have watershed speak to the flood risk in the area in a second.

[12:11:32 PM]

Basically, we have the mayor pro tem's amendments that she identified. We have quick information on blackout dates. Staff to speak about flooding in the area. My sense is we probably could get through this and be done in 15 minutes. Let's try to do that. You want to come down and speak about -- mayor pro tem, what were the amendments that you invade let's pull them up. What was the first one? It was amendment number 1, something about sustainability issues.

>> Tovo: Yes.

>> Mayor Adler: Okay.

>> Tovo: So my amendment, again, said -- talked about the sustainability that the final agreement should include the green and sustainability terms. And that was -- the response back was they're modified to eliminate which are addressed in another section of the term sheet. I didn't actually -- that's a question for staff. I'm not sure where they're addressed. I mean, they are addressed in more detail in the draft. But I would like to take affirmative action to make sure that the draft recommendations from our sustainability office are indeed part of the agreement. But I guess that's a question for staff. When it says that the green and sustainability terms are addressed in another section, can you tell me what you were referring to?

>> Mayor Adler: I don't see this. This is number 1? I see it, okay. I just didn't see it in the language. Okay. Got it.

>> That's a comment from psv.

>> Tovo: Oh, I'm sorry. I thought that was a comment from staff. Okay.

[12:13:33 PM]

>> Mayor Adler: Slightly modified to eliminate green sustainability terms which are addressed in another section of the term sheet.

>> Tovo: I guess I'll need help from psv knowing where that is. It also says see below for green building and sustainability revisions. I assume they're referring to the trail comment. And possibly also green building. Anyway, the substance of what I'm trying to achieve here is to incorporate our draft sustainability terms from our sustainability office into the document, replacing "Facility" with "Stadium" throughout the document and making a couple other changes that we probably want to discuss. So if there's -- if we're about to take a break for lunch then we probably should start with the other amendments and give time for everybody to kind of read through this.

>> Councilmember.

>> Tovo: That would be my recommendation.

>> Just a quick question. The items you have on the yellow sheet you want in the lease or in the term sheet?

>> Tovo: Well, they need to be on the term sheet to make it into the lease agreement, no?

>> Well, the term sheet has some general language about exploring how to get to these positions, working with the staff, and so this may all end up being as part of their commitment in the lease. I will have -- we'd have to talk to them about whether they're ready to make these specific commitments now. In the term sheet.

>> Mayor Adler: Where in the term sheet does it talk about that being something --

>> It is page 6, under "Additional considerations" the first sub -- subbullet where we talked about stadium will achieve lead certification, the subbullet reads "Stadium co will work with the city on feasible options for sustainable design to minimize waste, net energy and net water status."

[12:15:33 PM]

>> Tovo: So the history here is that then when I asked in our public session -- in our special called meeting what some of those methods would be, our staff indicated that they had drafted some ideas and some recommendations. And so now I'm trying to put a little more force behind it.

>> Mayor Adler: So I guess the question is, could it say stadium co will work with the city on feasible options for sustainable design, including those on exhibit a and exhibit a is what came from the staff. Does that work?

>> Tovo: Without knowing what the final terms are going to be in the lease agreement it's not clear to me whether they would have any force or not.

>> Mayor Adler: This said they would work with the city to -- on feasible options to achieve them. Were you looking for them to go through and commit to the things that were on that page.

>> Tovo: And because the "Working with" is going to happen outside of council approval, yes, I want a little more assuery on that.

>> Mayor Adler: Okay.

>> Tovo: You know, it was a critical bullet point in that resolution, that the as close as possible zero waste. Et cetera. So . . .

>> Mayor pro tem.

>> Tovo: Again, I'm happy to come back to this.

>> I believe that information was included as additional information as to how the sustainability office looked at those types of things. But from a legal perspective, we haven't reviewed that to see if that's appropriate to include as contractual language. I don't know that that was the intent, and the law department hasn't looked at that language to ensure that it could be contractually appropriate or binding legal language. I don't know if that's the case or not.

>> Tovo: I would assume it would be binding legal language by the time it made it into the final agreement, right?

>> Mayor Adler: Okay.

>> Exactly. But we haven't looked at that to ensure that that's -- that there aren't any issues with that.

[12:17:37 PM]

>> Mayor Adler: Is there a second to the -- so I think the mayor pro tem is suggesting that that agreement become requirements as part of the term sheet. I'm going to oppose that because a lot of these come with significant costs. I would like them to take a look at what's feasible and work towards what's feasible and I think that's part of this process but I don't know whether it makes sense to do the roof tops, solar, I don't know if the "Shall" on the net zero water makes sense to do, and I'm comfortable with the document that says that they'll work with the city to try and maximize and do the things that are most feasible. Do you want to make that motion, input mayor pro tem makes that motion. Is there a second to that motion? Councilmember pool seconds it. Is there any further discussion? Those in favor please raise your hand. It's alter and mayor pro tem and pool. Those opposed please raise your hand. Is there any abstentions? Ms. Houston abstains, the others voting no. It does not pass. Any other amendments, mayor pro tem.

>> Tovo: So I'd like to make that motion now with the language you suggested, which as I understand it was giving -- well, I guess I'm going to edit it a little to say "Giving serious consideration to the recommendations as provided in the draft sustainability term document."

>> Mayor Adler: Okay. Is there any objection to including that? That's included then. Next item.

>> Mr. Mayor.

>> Mayor Adler: Yes.

>> I didn't hear that last part. What --

>> Mayor Adler: So on the additional consideration, on page 6 of 27.

>> Yes.

>> Mayor Adler: The first bullet point, we'll work with the city on fancy a feasible options to minimize waste, net energy and net water status and then the language that the mayor pro tem offered --

>> Tovo: Hopefully I'll do it exactly the same this time, "Giving serious considerations to the recommendations in the draft sustainability terms document."

[12:19:44 PM]

>> Mayor Adler: Okay. Anything else?

>> Tovo: Yes. So I'd like to move that we stipulate in the lease and development agreement that any application submitted for development shall be current code on the date of application. And, again, the intent here is to prevent any claims to grandfathering on this site.

>> Mayor Adler: so this -- so that I understand what this is, I want to try to understand this better, what this is saying is that the rules that we apply to this property will be those that are in place with the first permit application. As the property is initiated. Is that correct?

>> Tovo: On the date of application for this project. It's my understanding that the site was platted in 1987 and there are some vesting notes and I want to be absolutely clear that we are not allowing development to proceed on this tract under older code, that it really -- the development on this tract needs to be in compliance with current code. And I would have raised this last week except it was just pointed out to me very recently.

>> Mayor Adler:

>> Can I offer a -- potentially a compromise but I think it reaches the same intent. If we could call -- if today passes, could we call "Today" the day that we're locked? Because what happens is we will start the planning and engineering process if this passes today. But if we don't get that done for six months out and then the rules change we've got to start over.

[12:21:46 PM]

So if we could say that today is the day that we look at the rules in effect, then we could accept that.

>> Mayor Adler: That would seem to intake your issue which is the grandfathering for plat notes --

>> Tovo: It captures that piece but I can't agree to that because I think it's consistent to what we do for other applications, when they file their application they're subject to current code at that time. And so I'm going to have to stick with what I have. I think that's consistent with how we treat other developments and it needs to be the same here.

>> Mayor Adler: Wouldn't that be the default any how on this?

>> Tovo: Mayor, I'm concerned it wouldn't be the default.

>> Mayor Adler: No, no. I'm not arguing against you. I'm actually --

>> Tovo: Agreeing with me? Okay.

>> Mayor Adler: I'm check to go see. Wouldn't that be the default anyhow, this F this is being developed under the rules of the city that it would be bound by the regulatory structure in place as the first application came in?

>> Well, not exactly. Under the local government code, theoretically, if you don't address it today, an applicant on this tract could come back and say I want the rules in 1987. We're prepared to give up that opportunity today for some assurance that we don't get six, eight months into the design and then file our site plan only to be told, oh, last week, we changed all the rules. Because the current rule today would be you're grandfathered back to the plat.

>> Mayor Adler: Right. But you're giving up that.

>> We're giving up that. In exchange for consideration that the work that we start doing now, because in order to get this stadium open by 2021 --

>> Mayor Adler: So the normal deal under the general rules if they apply it by city code would be they're entitled to any grandfathering that may or may not exist. What they're saying is they're willing to give up any grandfathering that may or may not exist in exchange for knowing that they can under whatever -- proceed under whatever is in force today.

[12:23:58 PM]

That would seem to be a fair compromise.

>> Tovo: And in all do respect, mayor, I think number 1, this be may be an issue we want to talk about with our attorneys in executive session. But at this point we would be giving up a requirement we make of all other developers because we would be allowing them to proceed from here on, you know -- the regulations as they stand today rather than the regulations as they stand when that application is filed. And I just -- I think it would be extremely inappropriate for us to proceed and allow for grandfathering claims. This is our tract of land. I don't know why we would let -- you know, we have --

>> Mayor Adler: Okay. Let's --

>> Tovo: [Indiscernible] Against that on other land. Why would we allow something to grandfather back to 1987 provisions when they're developing on our own land. I just couldn't support that.

>> Mayor Adler: Let's hold this one and go on to your next amendment.

>> Alter: Can I make a comment on that?

>> Mayor Adler: Councilmember Flannigan first and then councilmember alter.

>> Flannigan: I agree with the mayor pro tem on this one. I don't think anybody is arguing they should have to abide by the '87 code but I think it's more reasonable that you have to you abide by the code when you're -- as any developer does related to the moment you file your permit or the site plan,

whatever that trigger is. I also think, you know, Mr. Suttle, that the notion that we might pass any code amendments in the next six months is very optimistic.

[Laughter] So I'm not so worried about that contemplated scenario. But I also think should ancillary development come in it should have to comply with the code that exists at the time of the ancillary development so I'm more comfortable tying it to the moment of development. So the stadium project which should initiate practically immediately would comply with the code we basically have today and whatever is in the future would have to comply with whatever we pass in the future.

>> Mayor Adler: Councilmember alter.

>> Alter: I think I agree with Mr. Flannigan on that but we have to actually preclude the grandfathering because the current code allows grandfathering unless you preclude the grandfathering.

[12:26:05 PM]

So we have to be careful that it's worded so that they can't grandfather. Yeah.

>> Mayor Adler: Okay. So if you guys could work on language that reflects that, let's see if we can pull that up last. Mayor pro tem, you want to --

>> Tovo: Too, I would like our staff -- I wasn't sure, councilmember Flannigan, if you were saying -- if we're in agreeing on the latter point or not, that they should comply with current code as of the date that everyone else does when they file their first application. Okay.

>> Mayor Adler: That's what I understood him to say as well. If you could work on language that works on that --

>> Tovo: The language I introduced was intended to preclude grandfathering. If it hasn't achieved that, yes, I need legal to change it it was any application submitted for development shall be current code on the date of application.

>> Alter: The current code allows for grandfathering.

>> Tovo: I see what you're saying, that is my entire intent, to preclude grandfathering. So thank you, staff, for making that happen.

>> Mayor Adler: Okay. Any other amendments? Mayor pro tem.

>> Tovo: Yes, mayor, I can't remember if we did this one or not, with regard to the viewing stations. I think we may not have.

>> Mayor Adler: We have not addressed that.

>> Tovo: I language I proposed --

>> Mayor Adler: This is amendment number?

>> Tovo: This is amendment 9 with regard to viewing stations. And I'm proposing some slightly different language.

[12:28:07 PM]

>> Mayor Adler: So the mayor pro tem on this one you're phrasing this to endeavor to.

>> Tovo: Yes, shall endeavor to provide free live outdoor screenings, et cetera, et cetera, and if it gives comfort to say especially in instances of sold-out games I'm happy to add that language too. But it would be adding the language "Endeavor to." Sir?

>> Dan Barrett, mayor pro tem, the issue here is we don't want to set an expectation that we're not legally able to deliver. Mls has certain regulations about viewing in public gatherings like that for games, whether sold out or not. There are not blackout dates like in the NFL. There may be rules as it relates to ESPN, nationally televised versus locally televised games that would apply but in terms of viewing experts that type of things there are limitations the mls has and we don't want to commit or endeavor to do something we don't know we can do yet.

>> Tovo: How about explore the possibility of?

>> Explore the possibility of, sure. We can do that.

>> Mayor Adler: Any objection to including the words "-- with the language "Shall explore the possibility of providing"?

>> Tovo: Great.

>> Mayor Adler: Any objection to that? No objection. That then is included.

>> Since Mr. Barrett came up and talked about the viewing rights. Maybe he can take an opportunity at this point to explain to us by blackout is NFL and not msl and viewing writes with ESPN and other stations?

>> I'm not sure if NFL still applies backout rules. For many years when H they did not have sold-out games they 0 would have blackouts to try to encourage people to go to the games.

>> Let's talk about mls.

>> Mls doesn't have that type of provision.

>> What about the viewing provisions?

[12:30:10 PM]

>> In what context?

>> Say a local TV station is showing an event from mckalla. Broadcast nationwide but the people in Austin or this central Texas viewing area are not able to watch it. Will there be guarantees that we will be able to watch the events on TV if we're not in the stadium?

>> Games will be televised as much as possible. It depends on -- it depends on what the national media contract is and it depends what the local media contract is. There's certain licensing agreements that national partners have and local partners will have that dictate what is televised locally and what is televised nationally. When a game's televised nationally then that game can't be televised by the local station. If it's on ESPN, for example, you may foot be able to watch it on your local channel but you'd be able to watch it on ESPN if there's a nationally televised game. If there's a locally televised game, there's a different national game played, Portland against Seattle, that may not -- and there was a local game that would be televised locally, then that wouldn't be blacked out or anything like that. So there's certain -- they're very complex rules but the goal of each local team and goal of major league soccer is to televise as many games as possible in the local market which would include not just television but also include streaming and other methods as well.

>> And is that the situation currently for the team that's in Columbus, Ohio?

>> I don't know what their current local agreement is, whether they have a local deal or not.

>> Can we find that out?

>> We could. I think that would be helpful. I want to make sure if we're moving down the road with this, that streaming, live streaming, access viewing --

>> Their games are all televised locally and streamed locally.

>> Are you sure?

>> Don't know about the local television I know they have streaming rights to it. We can get that confirmed for you.

[12:32:10 PM]

We don't have an operations person with us here today unfortunately.

>> I I think this is a key piece for people who hey not be able to intent for whatever reason.

>> The intent is televise as many games as possible.

>> I get that. Let's see what that looks like

>> Mayor Adler: Any other amendments before we take a vote? Mayor tem?

>> We talked about wetlands and I provided a substitute amendment here and that is number 12.

>> Mayor Adler: Hang on a second. Would you talk to us about -- there was a memo that came out, or e-mail that came out speaking to wetlands, have you seen that e-mail?

>> The most resent e-mail?

>> Yes. Chris hemmington, environmental officer. I have seen the e-mail. The phenomenon of ground water kocurs in the east under this very building. Over our bluegill terrace depotties and Edwards limestone to the west. That's not unusual. We were certainly aware of that. In 2016 we hired a contractor specifically to investigate that and the results were consistent with that 2011 university of Texas study.

>>> Okay. You're familiar with this and it's not an issue?

>> It's certainly not an environmental issue. It's an issue encountered by construction all over town.

>> Mayor Adler: City hall is over one of those?

>> That's correct.

>> Mr. Harrington I know you spoke with my staff with the corpse of engineers. I'm trying to find my summary of that conversation she had with you. It's my understanding the applicant can request a pre construction application hearing. They need to have enough information at that point for it to be useful.

[12:34:15 PM]

>> A pre construction notification? A pre construction notification can be submitted to the core of hears. Watershed staff looked at providing -- going ahead with that process but there's just not enough information to populate the form. In coordination with the corps, we initiated that process. We would submit the information we have about the location to the corps. We're preparing that letter. We haven't sent it yet. It might be a 60-day process but we've already initiated that.

>> I think it's good to proceed along those lines but it's my understanding that nothing in the terms at this point require the applicant to do a pre application with the corps of engineers. I think that's a requirement. Is there anything that that would require that pre application to take place?

>> The applicant would be required to confirm with federal law but can't speak to anything specifically.

>> That would require them to do pre application?

>> If it's applicable, yes.

>> Then that's the intent of this amendment?

>> Mayor Adler: So I'm clear, is a pre application consultation with U.S. Corps of engineers something that's required under federal law?

>> It depends on the site specific circumstances. Again as we stressed in our memo we don't believe this would be a jurisdictional wetland.

>>> Okay. So, I would agree with this if it said it's requesting it's required by federal law but I wouldn't impose a standard that creates an obligation to do something that our staff tells us is not necessary if it's not required.

>> Troxclair: I'm not sure I understand what the -- I think where there might be controversy is in the next sentence about what to do with that information but I'm not sure that there's any -- I'm not sure why there would be a -- what is the down side of requesting a pre application consultation.

[12:36:19 PM]

>> Just to clarify a pre jurisdictional determination is prepared by staff. It's different than pre construction notification that month most likely be done by applicant. If wetland is determined it would have to be protected or mitigated consistent with federal law. Even if we determined it existed under city code we'd have to follow our own procedures.

>> Mayor I want to know from the applicant whether they have any concerns about doing something that doesn't sound like there's -- about including in the terms of the agreement that they are going to seek out pre application consultation.

>>> Come back here for a second so I understand what you said. Don't go too far, Richard so you answer mayor pro tem's question. What did the city initiate?

>> We received that letter from the core of engineers. In response to that letter our wetlands biologist looked at the site and history of the site. We don't believe it would be a jurisdictional wetland predicted by the corps at noptd defined under the Austin city code. However doing due diligence and communicating with the corps, to close that loop in response to the letter it looks like that path forward is for us to commit a preliminary jurisdictional determination. We would provide specific information they request about the location. And they would determine whether or not it's a wetland and whether or not it's a wetland under the corps of engineers.

>>> If it's determined it is by the corps. Does the cap cant as part of their work have to do a pre application consultation with the U.S. Corps of engineers?

>> Specifically I'm not sure but the 'couldn't would be required to follow federal law and mitigate that wetland if it falls under the corps's jurisdiction.

[12:38:20 PM]

>> Mayor Adler: If it's determined it does not he exist after giving that duff to the U.S. Corps of engineers they don't have to take remedial action.

>> Correct.

>>> My problem is you may require them to do something that's not necessary because it's determined that there's not wetlands out there to do that with but I have no problem saying that they have to follow the federal law. If it's determined that it does exist, as identified by the corps, then certainly I would want to make sure that they did everything they were supposed to do. I just didn't want to require them to do that there F there's not wetlands.

>> Mr. Harrington if the jurisdictional report says there's not wetlands and applicant submitted a pre application consultation I suspect they would get the same answer?

>> Yes. Absolutely.

>> I guess what is really not clear to me, I think this still makes since, and I'm trying to find the discussion that you had with my staff member yesterday. These are two different processes. This happens earlier, slightly earlier.

>> As I understand, you're asking either staff or applicant to consult with the core being an appropriate method to determine if a wetland exists and if a wetland exists to follow federal law to protect or mitigate that. Waters and protection staff already initiated that so we would not have any objection to the first part of that amendment and I can't imagine we have any objection to anyone following federal law to protect wetlands.

>> Let me ask you you this. And I know for some of you joining us today you may wonder why on Earth we're spending time talking about this but this has come up throughout the last couple months as an issue and it was on my sheet as an area around which we have to have discussion.

[12:40:22 PM]

Unfortunately we are having it here on the last day because we've run out of time the previous two occasions. Why do those two processes exist if they're -- it would seem to me that they produced different sets of information if the two processes exist for the same agency. Can help us understand the difference between the two.

>> The corps has individual permits for some activities and nationwide permits, general permits so you can see coverage pre determined specifically defined activities so this would be seeking a determination. What we're asking the court to do is determine if a wetland exists on the property that would fall under their jurisdiction. If it does we know it does and any future development would have to comply with federal law to preserve that wetland that's a separate process for wetlands that we require under our code which is more stringent than what the federal law requires.

>> What is the pre application consultation going to yield? It's my understanding those are two different processes yielding slightly different information.

>> Again the communication with the corps. The best path forward based on where we are at this point the information available is jurisdictional implementation. We submit the paperwork following their form and process so they can determine whether or not a feature exists under the property that falls under their jurisdiction. I policy jiesz I'm trying to use specific language that's the language the corps

uses versus alternative process which is a typical one that would occur later once more specifics about the actual development are available.

>> Okay, so that -- I think I heard you say that it's typical to do a production -- did you use the word typical or atypical.

>> Between a preliminary jurisdictional determination is atypical.

[12:42:27 PM]

Pre construction notification which is dependent on site specific characteristics and nature of the development proposed more common from our experience. So in essence the amendment I'm propose something more typical. So why would there be any concerns about having this be a component in

>> From the perspective of watershed staff, I have no concerns. We initiated, what I understand the intent of the amendment to be.

>> I want to say I had a little bit of a conversation about this last week and the only information we got was that staff had gone out there and there were no wetlands. There was no conversation about this process being initiated.

>> I hope that's not consistent. We do not believe this is a wetland under city code and most likely not a wetland under the corps of engineers but to do our due diligence we're moving those processes in parallel.

>> You'll continue that process of seeking the jurisdictional answer?

>> Absolute lay unless you direct us otherwise.

>> Okay. But as I under the discussion we just had, it would be pretty typical for a pre capation consultation to take place if we've already gotten that answer back from the U.S. Corps of engineer about the broader matter, then it's likely just going to produce the same response or more and second part of my amendment just really emphasizes and really emphasizes, I think more to the public than -- I mean it doesn't have any -- it won't change what would happen anyway which is that they be required to follow -- they would be required to comply with federal law which requires preservation or mitigation of.

>> Correct. From my perspective, yes.

>> Okay. Thanks. So I don't see a downside to including it.

>> Let me follow through. You're asking right now for this U.S. Corps of spheres determination?

[12:44:29 PM]

In essence you're giving them the information so they can close their loop.

>> Yes, sir.

>> Mayor Adler: Is it typical for someone who is building a property to then go -- if it comes back and says there's not an issue, is it typical to file a pre application consult indication?

>> It would not be.

>> Mayor Adler: It would be atypical.

>> Yes, sir.

>> Mayor Adler: Why would it be atypical.

>> Because the determination has already been made.

>> Mayor Adler: That's what I'm getting to if it's already been made why make them do it again. If there's an issue I want to make sure they comply with federal law at that point they have to pursue it.

>> So then let's just -- then I would -- I will -- I would offer the city manager direction that we want this project to be pursued with all due haste, and then cut my amendment to if wetlands or other significant environmental features are determined to exist on the site, et cetera, et cetera, which reiterates what our understanding is that there are obligations under federal law.

>> So noted.

>> Mayor Adler: So you'll do the first sentence and we'll handle it that way. What about the second sentence, if wetlands are determined to exist, preserves that this will be designed in a manner that preserves and protects them. Is that what federal law requires?

>> I think it's preserve or mitigate. The

>> Mayor Adler: Preserve or mitigate.

>> Mayor, mayor pro tem. We intend to obviously follow every state and local law under the construction of this project. What I have noticed in my practice, if you go to the federal offices and ask them for something that's out of the ordinary, they try to fit you in, and it gets really weird.

[12:46:31 PM]

>> Mayor Adler: I think we've handled the first sentence. So there's not going to be a request for pre application consultation.

>> Then it's protect and mitigate under current codes then we're good.

>>> In fact I would say design stadium and other elements in a manner that complies with federal, state and local laws to preserve and mitigate. To preserve protect and mitigate.

>> Just protect and mitigate.

>> Mayor Adler: To protect and mitigate. What I don't want to do is either limit or expand federal law. That's my concern. Can we say in a manner that complies with federal, state and local law? If wetlands are significant to determine to exist. They commit to design the stadium in a manner that complies with federal, state and local laws.

>> I think we need to indicate the level of protection that that provides for wetlands, because it's come up multiple times. I want some surety around it.

>> Mayor Adler: What is it about state and local standard.

>> Sorry I had a clarification on something else. Could we say since significant environmental features isn't a defined concept in code. Could we say critical environmental features?

>> Sure, sure. Thank you for that change.

>> Mayor Adler: So then the next question we have. We need you guys up here again. The sentence would remain if wetlands or other critical environmental features are determined to exist on the site stadium code to design the stadium in a manner that preserves and protects them. I don't nope if federal law, state law, or local law might require more than that and I don't want to let them off the hook by agreeing to let them do only those two things and if federal state and local law requires something other than that I don't want to require an obligation different than what is in federal state and local law.

[12:48:43 PM]

>> It comes down to the nature to protect federal law. That's the intent. Federal law allows for mitigation as does Austin city code. If you're impacting a wetland there's a variety of ways you can mitigate for the harm that would occur. If it's preserve and protect it's questionable if that allows mitigation under federal law or existing city code.

>> Mayor Adler: If we said preserve, protect and mitigate them, does that then comply with federal, state and local laws?

>> Perhaps we say they commit to designing the stadium and other elements consistent with federal law.

>> Mayor Adler: That's where I was.

>> And local.

>> Mayor Adler: Federal, state and local law. Let's put them all in there. Design the stadium in a manner that complies with federal, state and other local law. Is that okay? Only objection? Hearing no objection that's included. I think that was your list.

>> Yes. >>

>> Mayor Adler: Except for the grandfathering.

>> I have one more and that is amendment 11 which was suggested to us in a memo dated August 8th, 2018, environmental assessment and flood risk at mckalla place. Page 82 the staff recommends that council stipulate that the current 500 year design storm be used for bearses I of sizing of retention of mckalla place property and I cap toward that in my amendment. It says per staff's recommendation the 500 year design storm shall be used as the basis for sizing of required on site detention for mckalla site. I ask staff if that captures the intention in the memo.

>> My personal watershed question, yes, ma'am, it does.

>> Thanks.

>> Mayor Adler: Is this something that we are doing at this point across the city?

[12:50:45 PM]

My understanding is, this is coming. I don't know that we know exactly where those limits are at this point. And we haven't adopted any as a city.

>> We are, through development services, particularly advising applicants as they come in the door about this pending change and our design storms used for both floodplain regulation and for the sizing of drainage and flood risk reduction infrastructure. In this particular case, because it is city property, we could stipulate, going to that level of detention. This is a head water site. Under city code we have a very stringent application of to adverse impact policy. There can be no down stream adverse impact on water surface elevations that affect some other property owner or otherwise increase flood risk. The sizing of the detention pond itself based on the 500 is very close to what we expect the final numbers to come out of atlas 14 for the 100 year and that would be our standard as it is now, it would be in the future. 100 year. The difference being the 100-year in the future is going to be higher. That could obviously affect the footprint of a detention pond but there are other measures that can be take ton mitigate that many of which have been on the table and discussed as part of the, dare I say it, code nec process.

>> Mr. Than began?

>> Flannigan: When I look at the floodplain maps I don't see 100 year or 500 year floodplain. This is more head waters. If the community hears this andth there's a big tract of land that's in the floodplain this is a head waters thing not floodplain.

>> It is in the head waters not defined floodplain either 100 or 500.

[12:52:49 PM]

It's subject to detention and specifically upstream head water sites is where we like to hold water. If this was the very bottom of the watershed, we would probably wave that requirement wanting the water to leave the site. All of the water coming from above.

>> Flannigan: All of the good reasons we have flooding regulations in our code that we were contemplating to expand and I won't say the word again.

>> Yeah.

>> Mayor Adler: Yes, legal behind you. Do you want to say something to us?

>> Just another clarification, since this would be an amendment to the term sheet. We would delete per staff's recommendation.

>> Sure. I was just trying to emphasize for my colleagues this was a recommendation that came directly out of their memo.

>> Mayor Adler: Okay. Do you want to speak to this?

>> Mayor, members of council, this is one that the current law we're saying we meet, now we're asking us to meet potential changes to the law, we haven't had a chance to look at this and R and what it did to the site. We can't agree to somebody of what the impact will be on the site. If it's one that we could work with watershed staff on, that would be fine. It could be that we find out that the size of pipes and detention pond takes up the whole site and we would not be able to do the stadium. Rather than require us contractually to comply with something we may have in the future, we cannot agree to that. What we could agree to is working with the watt effort shed staff to see what that might look like and try to reach a consensus. It's just too new and not enough information for us to agree to that tonight or today.

[12:54:51 PM]

>> Discuss on the dais? Council member kitchen?

>> Kitchen: I have a question. I'm trying to understand what the mayor pro tem would like to see happen here. What are you trying to accomplish with this? The reason I'm asking -- I'm sorry, just clarify. The reason I'm asking, is that I was confused. Revo requirements in here to hold them to our standards that we have to meet. They have to meet our laws. I forget where that is exactly throughout the development process. I guess I thought that would take care of issues related to stormwater. Are you thinking it doesn't? What are you trying to get to?

>>> Do we want staff to be hearing this conversation?

>> I'm not a watershed expert and I am -- we have asked, you know, we asked questions about environmental assessments and flood risk at mckalla place and our staff provided us with a section about flood risk where they said and I read it from the memo, we recommend that the council stipulate and the rest follows my amendment. This was a recommendation that come directly from our staff that I'm trying to be embedding in here. I think we need to ask again --

>>> I think he needs to answer that question.

>> Why they are representing it. It's my understanding as he said, we have new information about flood risk in Austin that they are trying to incorporate into the development that's moving forward and so one of the questions I'll have for him is, it sounds like they are doing this with other developers as well.

>> Kitchen: That's my question --

>> Mayor Adler: So, that's the question for you. Is -- do we have to call this out, or would this ordinarily happen as part of the development process of the city?

[12:56:54 PM]

>> To give you an idea of time lines with atlas 14 and we described in a number of memos what that is. It's a reanalysis of what we call the design storms based on the addition of the last 20 or so years of rainfall records. Very significant change prepared in draft form. We're still anticipating release of the final, in and around October. We are right now, through the normal process with codes and ordinances, and planning commission, initiating an ordinance process to adopt the current 500 as an interim regulatory standard for floodplains. As far as trueing up the drainage criteria manual which is where we address piping and pond sizing, that will follow, and that, we need the final, final numbers from.

>> Mayor Adler: So, the question was, if we don't include this line, wouldn't this be picked up in just the normal -- they have to follow the regulations, so as they build this stadium. So they're going to come to the city and follow the procedures that we have.

>> That is correct.

>> Mayor Adler: Do we need to put this in?

>> What I can say the drainage criteria sync-up with atlas 14 optimistically bite be the middle of next year before that occurs. What we have currently would be based on the current 100-year design storm. And I would indicate that there are ways to mitigate, you know, this increase in the design, engineering design storm. You can combine water quality and detention, implement low impact development techniques on the site and a number of other things that would probably, certainly minimize any increase in footprint.

>> Mayor Adler: So I'm fully understanding the answer to the question, which is, if this came in as a normal development, in other words, what the mayor pro tem is proposing, it's something that goes above and beyond what would happen if an owner of this property came in and was requesting development.

[12:59:04 PM]

>> If an owner came in today it would be under current standard that would be with respect to both, any floodplain issues which there aren't, or with respect to the evaluation of down stream adverse impact and the sizing of detention ponds, for example, or other drainage infrastructure.

>>> And you may not know what has to happen to this property until sometime next year?

>> With respect to the drainage criteria manual and revisions that are required once atlas 14 is fully adopted.

>> Mayor Adler: So this person wouldn't know what they can do on this property until sometime next year?

>> In a definitive manner, I would say yes, but I think it can be assessed to a pretty high level at present, with respect to, again, I think the primary concern there is going to be how much, if any, does this change the footprint of a detention pond.

>> Mayor Adler: Discussion?

>> Kitchen: I have a question.

>> Mayor Adler: Yes.

>> Kitchen: So just so I understand, then, so -- and I'm understanding the timing you are talking about, so what are we doing with other developments at this point?

>> We are right now advising applicants when they come in that this is a known risk that is going to require adjustment of our code and criteria as it proceeds through the process. And I'd say beyond that we're also again considering ordinance changes this the interim to bring to you as early as this fall. Mostly relating to flood plain regulation, but we're also talking about some potential interim requirements with respect to certain types of drainage infrastructure and specifically detention.

>> Kitchen: Okay, so then -- so I hear you saying you are giving everyone a heads up, so just -- I don't remember the time line in terms of when these requirements kick in.

[1:01:13 PM]

In other words, for a particular development do these requirements kick in at site plan, after site plan? Or where do they kick in?

>> It's druggie site plan review, the drainage, environmental and all that.

>> Kitchen: In other words, about of the site plan can be reviewed -- could be approved, they have to meet the requirements. Is that right?

>> That is correct.

>> Kitchen: And so are you thinking that the site plan -- are you thinking that that process will occur before these changes are made? Is that what you are saying?

>> I'm not sure entirely what the applicant's exact time line is for when they would submit a site plan and by their schedule require its approval. What I can say is that the drainage criteria components of that we may be proposing some interim changes here in a couple months, a few months. But otherwise it's a regulatory process that we have to go to to make revisions to the dcm and that takes a little time.

>> Kitchen: With regard to all of our properties that we're dealing with right now.

>> That is correct.

>> Kitchen: We've got this issue that we need to deal with. So, okay. I don't know what the solution is.

>> Mayor Adler: How are you dealing with this citywide, enterprisewise, this issue.

>> Mayor, councilmembers, there has been memos that have come from watershed staff and we are working to ensure that both our policy makers and our community is aware of the impact of some of these new maps will play on our development community. It's high on my radar and I'll be coming back to council with more information so you are in the loop about how we're communicating that to both our development community, our residents, because this is going to be -- this may have those impacts and we want to make sure everyone is aware of. So I'm committed to coming back even within a month and maybe at a work session later this month to talk about this more indepth.

[1:03:22 PM]

>> Mayor Adler: So I'm unclear how to handle this now here. We're trying to get certainty so this deal can move forward, I'm concerned about doing something that doesn't get established for another year. I'm concerned about adopting a policy that the city hasn't adopted as a city policy at this point. We don't know what the city is going to do with respect to the 500 and 100-year flood plain at this point. Is that correct? The city hasn't -- you haven't decided a policy.

>> No, and this will be a decision that ultimately is made by council.

>> Mayor Adler: Further discussion on the dais? Ms. Houston.

>> Houston: I have a question about the little walnut creek tunnel.

>> Yes, ma'am.

>> Houston: And I understand about downstream from y'all in design phase at some point will start construction. Is the tunnel being designed with the redevelopment campus at the IBM site on broad more in mind?

>> The project is little walnut creek tunnel is very near complete final design. We expect construction potentially as early as late this calendar year. The project is to divert flow from little walnut creek to protect I can't remember how many homes, but a substantial number of homes along that creek and to avoid downstream impact enlargement of an existing detention pond in quail creek park. Any existing development whether this site or any other site is going to have to prove no adverse impact, so it would not impact the project we're about to build.

>> Houston: I'm more concerned about the large impervious cover sites at IBM, the upstream from where this property is and when they start redeveloping that. And I'm also concerned about any other projects in the pipeline at development services that might also impact this because downstream from where the tunnel is are folks who have never had their houses flood and in 2015 they did.

[1:05:38 PM]

So that's my concern is the flooding downstream and the impact of that and whether or not the tunnel is being constructed, designed and constructed to make sure that we are capturing all of that water and moving it safely downstream and not the impact that we had in 2015.

>> The numerical modeling that's performed to determine how to size a project like this accounts for current upstream development and what we refer to as buildout. That would include, you know, a site like mckalla. By city policy and very stringently applied, there can be no downstream adverse impact from development or redevelopment activity upstream of that project.

>> Houston: You would ask them to mitigate that.

>> And the mitigation typically is going to be detention.

>> Houston: Okay. Thank you so much.

>> Mayor Adler: Councilmember kitchen.

>> Kitchen: Mr. Mayor, can I suggest that I think people are thinking about what has been raised, can we set it aside for a minute and get through any of the rest of the amendments?

>> Mayor Adler: Let's see if we can handle everything else. I think we've answered the question on the blackout. The question was asked earlier. Ms. Houston had a question about -- and you just asked that question. So that gets us to the last two amendments. The [inaudible] Issue and the other is this language just on where are we on the

[inaudible] Issue. There's something that's put out on the dais.

>> I think a new copy of that is being printed out as we speak. We just had to make another quick legal change to that one. And so it should be on its way very shortly.

>> Mayor Adler: Okay.

>> Regarding the grandfathering.

>> Mayor Adler: Okay. Is there anything else other than to consider these two things before we take a vote?

[1:07:42 PM]

I think those are the last two things we have. And we're waiting for legal to bring us down language on what?

>> Kitchen: Could legal read that language to us and we could at least start to think about it?

>> The proposed language would say any application for development on the site will be subject to regulations in effect on the date the application is submitted to the city. Stadium shall not take advantage of grandfathering opportunities with respect to rules in place or rights available to stadium co prior to development application.

>> Mayor Adler: Say that again, with respect to rules --

>> In place or rights available.

>> Mayor Adler: Hang on a second. Rules in place or rights available.

>> To stadium co prior to a development application.

>> Mayor Adler: Okay.

>> Do you need a motion on that one? I don't know if mayor pro tem wants to make a motion.

>> Tovo: I'll make that amendment but I need to ask a question.

>> Mayor Adler: Can you put this up on the board? I don't know if there is an I.T. Person here, but my screen is blank.

[1:09:55 PM]

All right. Mayor pro tem moves this language. Is there a second to this? Councilmember kitchen seconds this. Mayor pro tem, did you want to address or ask questions about it?

>> Tovo: I do.

>> Mayor Adler: Can you hand this out on the dais?

>> Tovo: I need to ask our city attorney, it's been a while since I've looked at the vesting ordinance. Is this exactly what is the case for our -- I mean it's complicated, but is this what we would require of any other applicant that the rules -- that it be the regulations in effect on the date the application is submitted or on the date the application is approved?

>> On the data the

>> Tovo: Just so we're clear, the language of that second sentence where it talks about rules in place or rights available to stadium co prior to application, is that exactly the situation we're talking about where there are some vesting notes that -- that could open an opportunity for grandfathering back to that earliest plat? We are with this language precluding that.

>> What that second sentence was supposed to do was to say that if in the future, so if they -- if they are allowed to vest because of -- if they file an application in 2019 and then they can vest to that. Just want to make sure they can vest to the application they submitted. That's all they are trying to do. They don't want the original language that we had written said that they won't take advantage of any grandfathering opportunities, but they did say you want to be able to vest in the way that everyone else --

>> Tovo: To 2019.

>> Yes. That's what that's supposed to say.

>> Tovo: But they would not be able to go before the chapter 245 committee and file a grandfathering claim for any code prior to whenever that -- whatever the date of the development application is.

[1:12:07 PM]

>> That is correct.

>> Tovo: Okay. Thank you.

>> Mayor Adler: Is there any objection to this language? Do you guys want to speak to this language?

>> We degree to this lapping language.

>> Mayor Adler: Hearing none, this is included. That gets us to the last piece which is the 500-year design storm stand. I don't know what the city rules on this are going to be so I don't want us in this agreement to try to anticipate what those rules would be and to adopt a standard. I imagine this comes out as it develops. Would you take a long change in this, mayor pro tem, that said the current 500-year design storm standard shall be considered rather than used, considered as the basis for sizing? And that way when this comes into, it can be educated and referenced to whatever it is that is the developing city policy at that time.

>> Tovo: Mayor, I understand if you need to make that as an amendment to mine and I'll consider it. At the moment I'm just struggling with stepping away from what our staff had recommended on a site where, you know, we sure don't want to have risk causing flooding downstream.

>> Mayor Adler: Mr. Flannigan?

>> Flannigan: I just wanted to address what councilmember Houston brought up about this

[inaudible]. The domain area in general, it splits into three flood plains. So this is pretty much at the head waters of I guess little walnut creek and there's a lot of catchment area before you start seeing

[1:14:10 PM]

[inaudible] On the flood plain maps.

>> Mayor Adler: So as recommended here, I would move to take the word used and replace it with considered and that way the staff could at that point in time consider it as however that policy is developing. Is there a second to that? Councilmember kitchen seconds that. Is there any discussion on the amendment? Those in favor of changing use to be considered please raise your hands. Those -- it's Garza, Renteria, Houston, me, Flannigan, kitchen, troclair. Those opposed? Casar, alter, the mayor pro tem and pool. That change is made. Let's take a vote on the amendment. Those in favor of the amendment as amended please raise your hand. Those opposed? It's unanimous on the dais. I think that takes us then to a vote on the final product. Yes, are we missing something?

>> We have one question of legal. There was some language about a performance bond and we don't know what that is. We have a performance bond built in --

>> Mayor Adler: Legal came up and tapped me on the shoulder on that. Would you address this? There was something about a performance bond and you tapped me on the shoulder and said this is already part of the agreement.

>> Correct. There are performance -- there is a requirement for a performance guarantee. This additional requirement I'm not sure if we understood completely the intent has kind of left us a little confused. So we just wanted to clarify that's possible.

>> Mayor Adler: You're saying that it already contains a performance guarantee?

>> For the construction of the project.

>> Mayor Adler: That's what we were talking about. What is a performance guarantee?

>> It will be more specifically laid out in the lease and development agreement.

>> Mayor Adler: Okay.

>> But the requirement to have one is in the term sheet.

[1:16:12 PM]

>> Mayor Adler: Okay. With that understanding, does that address the concern you have? Do you want to speak to that?

>> Alter: I have asked multiple times how we are ensuring enforcement, and I'm not sure what you mean by performance guarantee versus a performance bond. As I understand it, a performance bond allows there to be insurance so that they have to, you know, have some -- if they are unable to follow through, that there is essentially an assurance policy that makes sure that the money is there. And my concern is that stadium co is a shell company that is backed up by P sv with a for part of holdings being stadium co and team and needing some kind of back stop.

>> I think I may be able to help with that, and I didn't understand your question earlier, but I do now. Typically in a big project like this, while we certainly have performance guarantees from the club and psv for the obligations to the city, the obligation you are talking about will be handed down typically to the general contractor. So stad-co will require them to have performance bonds, everything they need to guarantee completion of the stadium.

>> Alter: But we're going into a contract with stadium co and psv and there's no money they are putting down for this. They are ultimately responsible for it --

>> They are going to be making a very large construction loan so J.P. Morgan will be making similar requirements from them. They are putting down a substantial amount of money to get this stadium completed.

>> Alter: But they could still leave us with a half-baked stadium.

[1:18:13 PM]

>> Well, it's -- their construction loan will have a lot of elements that will prevent that. J.P. Morgan again having made this loan will want to make sure that the stadium gets built because they don't -- they need ability to recoup their investment as well. I don't see how that could happen that we would be left with a half-built stadium.

>> Mayor Adler: Councilmember kitchen.

>> Kitchen: We already voted this item and we voted to include a performance bond. So I think we should not be debating that. I think our staff is just asking us what that means. Is that what the question is or can we not just use that language, put it in as voted where we set a performance bond?

>> [Inaudible]

>> Kitchen: Can we not just go forward like that?

>> Mayor Adler: Well, that's the question. That's the question. Does the current language -- is it inconsistent with, say, a performance bond?

>> It does not use that term, but that is the meaning. So we can certainly clarify that, what that means in respect to the construction.

>> Mayor Adler: Okay. So from your intent, that was the intent of what the agreement was.

>> Correct.

>> Mayor Adler: Okay. So you don't have a problem then with that being added to it?

>> Well, we just wanted to make it clear that the performance we were concerned about was completing the building.

>> Mayor Adler: Absolutely. But to Ann's point. >>.

>> Alter: We have all these things they promised and we have nothing other than kicking them out as a guarantee.

>> Mayor Adler: We can ask them to a specific performance. We can get a court to order them to do what -- we don't have to kick them out. Don't we have specific performance rights?

>> On some elements we could ask for that.

>> Alter: We could ask for it. Do we have it or not?

[1:20:14 PM]

>> Councilmember, we don't have a lease. We have not fleshed all of that out.

>> Mayor Adler: When we have a lease and it's in place, can we sue for specific performance?

>> And again, I'm struggling with how we're looking for specific answers to things that haven't been fleshed out. I mean I'm not quite sure how to answer the question especially when it comes to having a performance bond which is an insurance policy against some action, and I'm not sure what your concerns are. If there is something specific you were concerned about that you want us to address, I would be happy to do that, but I'm not quite sure how to answer what you are asking.

>> Kitchen: May I say something?

>> Mayor Adler: Councilmember kitchen.

>> Kitchen: We voted this and said we voted for a performance bond. Are you saying you don't know what a performance bond is or you don't know how -- I would like to move past this. This is the kind of thing we can work through, but we voted for it. I don't want to go back and rehash whether or not we're going to go forward with a performance bond.

>> And the reason we brought it up was because after that passed, all the lawyers were kind of scrambling and scratching our heads as to what that meant to have a performance bond for every specific obligation of a contract is just not something that we know as a mechanism -- our understanding was it could be a guarantee for completion of the construction of the stadium, but if you want to have a performance bond for every obligation and how we could draw upon some kind of guarantee for every breach, it's not something we know is available to us or legally would be an option.

>> Kitchen: Well, then my recommendation would be to take it forward -- I mean obviously you can't do anything that's not legal, so take it forward and then work with --

[1:22:18 PM]

>> I'm not saying it's illegal. I'm saying we don't know how to -- I don't know what the intent is of each individual obligation having some almost liquidated damages provision for drawing upon a note in every case when really our remedy would be a judicial remedy for a specific performance like frank mentioned. I think we would be in the same boat if we were trying to interpret whether breach was sufficient to trigger some obligation based on a performance bond, I just don't think it's effective and we're just struggling with how we could include that into a term sheet and have that be an effective mechanism for us to use for all the obligations of operating a stadium and things like that.

>> Alter: So -- if I might, you know, if they don't have the [inaudible] Which is what I'm trying to protect us against, then the judicial remedy is not going to help us. And so I am trying to make sure that the assets are there should we need to call them on enforcement. And it is not just about the construction, it's about the performance of all of -- all of the obligations. You know, I agree that there needs to be enough analysis to set this up properly, but at the end of the day if they don't have assets to back up their promises, then we don't have a way to enforce this other than kicking them out of a stadium, and I do not believe council is going to kick them out of a stadium. It leaves giant holes in it as far as I'm concerned. I'm not asking you to have it worked out on the spot kind of right now, but that's what -- that's why I said to include a performance bond. I didn't specify all the different things, but that is the issue I'm trying to address.

[1:24:22 PM]

I'm trying to protect the city from the risks --

>> Mayor Adler: Understanding that risk, I think what you are being asked to look at is in -- find where it is reasonably feasible to be able to provide that additional or that kind of assurance that the obligations are met. But from what I understand from the conversation, there's kind of an implication as you interpret that you can't do it in places where it can't be done so there's kind of a reasonable feasibility issue associated with that recognizing the concern that councilmember alter has raised. Does that give you what you need?

>> Yes, sir, we can work with that.

>> Alter: And I would like to ask that the city manager have -- I would like all of the parts to be reviewed by other people, but I would very much particularly like that portion to be reviewed by some folks from the bar or other folks in real estate outside of the city to make sure that we're setting that up properly to protect the city because it is not just about the construction. There's a whole host of promises that are in here. And there is a risk, this is a risky business. We keep saying they are taking on all this risk. Well, you know, if it's a risky business, it's a risky business for the the is and it's our job to protect the taxpayers.

>> Mayor Adler: I understand. Let's go ahead and take a vote on this matter as amended. Those in favor please raise your hand.

[Laughter]

>> Flannigan: Good try, mayor. Good try.

>> Mayor Adler: It was a try. Any discussion before we take the final vote on this matter?

>> Pool: Yeah.

>> Mayor Adler: Let's go ahead and do that. We're going to lose Ann kitchen at 1:30.

>> Kitchen: I'll stay a little beyond that if need be, but if we have a lot more amendments for discussion I'm going to ask for a break.

>> Mayor Adler: I think we're at the point of final debate on the final motion. Does anyone want to say anything?

[1:26:24 PM]

>> Pool: I wanted to make a one word deletion on the base motion and I do have things to say in closing.

>> Mayor Adler: What's your one word?

>> Pool: We have authored negotiation and execution of agreements and so forth and I want to delete two words, "And execution." To continue negotiations with Precourt.

>> Mayor Adler: The motion is strike the words "And execute." Is there a second to that?
Councilmember troxclair seconds that. Any discussion?

>> Pool: I would like to speak to it. I think it's incumbent on us to know exactly what's in the contract. There have been some instances at the last meeting where it was indicated that thought had not been given to certain parts of the proposal and being on the time line Precourt has put us on, I think it's only prudent for us to check the receipts and know everything that's going on. And everything that we're voting on. And as one of Mr. Suttle's colleagues is fond of saying, you need to see the contracts. Actually hang on, I think I have one of the quotes right here. This is the quote. Publishing the contracts allows additional checks and balances through public participation to make sure that our city contracts align with our policies. I think that's been an issue in the past and I think it's one that can be easily avoided if we have those contracts published on the council agenda in advance of the council vote. So that's the end of that quote. And I would just say that I think we need those contracts published and on the council's agenda, and Mr. Wheylan if you are out there listening, I think you owe Mr. Suttle a drink.

>> Mayor Adler: Any further debate? Councilmember troxclair.

>> Troxclair: I support the motion. I hope that it would give Precourt the ability to go back and say look, they are moving forward, we've taken another step in the process.

[1:28:33 PM]

I always err on the side of being actually able to review contracts. I think our term sheet has gotten into good deal and discussion today, but ultimately we don't really know what we're voting on right now and I've never been a fan of just vote for it and then read it later. So I just want the opportunity for us to look at the final contract and, you know, if we need to discuss it in executive session, I don't know, I would be okay with discussing some portions if we needed to in executive session, but that combined with the fact there's still litigation going on and column use, I don't understand -- Columbus, I don't understand how we can be executing a contract when we don't have that chapter closed. Hopefully that will be resolved in the near future. I just saw this news article that mark wahlburg made a comment he is interested in buying the Columbus

[inaudible]. I want to get all of our ducks in a row before -- I don't know why that caused audience participation, but those are kind of the things that are on my mind. I -- I -- again, I guess appreciate the sports fans that are here. I have two former employees and volunteers who are in the audience in their mls gear, so they are definitely cheering me on to support this thing, but I would like the opportunity to see the contract first.

>> Mayor Adler: The amendment is to strike and execute. You further discussion? Councilmember alter.

>> Alter: The meat is in this agreement and I believe we have a responsibility to austinites to make sure the terms are met in the final agreement and I think that we can do that only by authorizing the negotiation and I fail to understand why mls gets that opportunity and the Austin city council does not.

[1:30:37 PM]

>> Mayor Adler: Any further discussion? Those in favor of the amendment, please raise your hand. Councilmember alter, troxclair, Houston, and pool. Those opposed? It's the balance of the dais. 7-4. Let's take a vote. Any discussion on the main motion before we --

>> Pool: I very closing remarks I would like to make.

>> Mayor Adler: Councilmember pool. Hey, hey, guys, come on. Councilmember pool.

>> Pool: Was there disagreement?

>> Mayor Adler: No, no, councilmember pool, go ahead.

>> Pool: But I will allow some of the other councilmembers to speak first. I'll be happy to be the last one to speak on it.

>> Mayor Adler: I don't think you get to be the last person to speak, you can speak now, but I can certainly recognize you later.

>> Pool: I think councilmember Houston wanted to say something and I'm happy to let her go before me.

>> Mayor Adler: Councilmember Houston.

>> Houston: This has been a very challenging process we've been through in the city of Austin and I'm sure it has been for the people that are in support of major league soccer coming to the city of Austin as it has been for those of us on the city council who are trying to do the right thing for a majority of people, not a specific subset of people. I've said all along where I stood. You know, I did the analogy that some people didn't get about getting married before your divorce the final, and so I went back and looked at some information from -- and passed out on the dais this morning from Nelson Wolfe, county judge in San Antonio, and a letter he wrote to the commission of major league soccer on October 27, 2017. Again, this is going to go over some of your heads because you are not as seasoned as I am, but there was a song back in the day called "You better shop around."

[1:32:38 PM]

And I feel that this is what has happened with the Columbus team is they've been shopping around. They first shopped around to Bexar county county and then they came to Austin, and so I don't like to be used in that manner. I think that we need a major league soccer team, I'm a soccer fan. My son played soccer since he was 5 also at St. Stephen's episcopal school and Anderson high school trojans, still play soccer in Virginia wherever he is. So I'm not that I'm against soccer, but I'm against soccer for the right reasons and unfortunately I don't think these are the right reasons. I'll be voting against the resolution.

>> Mayor Adler: Thank you. Any further discussion? Mr. Casar.

>> Casar: So when this whole issue got started, I had some real concerns around how cities deal with professional sports including major league soccer because of the large subsidies usually be paid out by cities to get pro-sports. As we've learned from our consultants in major league soccer oftentimes that's in the range of \$40 million and many cities doing much more. And the idea of people not paying rent on city lands for their lease was also a no go for me. But I think as this case has proceeded whether folks have been for it or against it, while the process has been difficult, I do think that process has yielded us something way better than where we started. You know, it's not that we are -- not only not putting in city dollars to build the stadium like other cities are paying tens and tens of millions of dollars to get a stadium, but are getting rent and revenue back. From what I've reported and understand, these stadiums don't generate tons of ticket revenue so we're trying to get a rent that is consummate with that kind of revenue. Then when mckalla place became the site we were discussing, I had a lot of concerns because I think affordable housing on that site makes sense.

[1:34:45 PM]

Proposals came back for affordable housing to potentially be on that site and with today's amendments it puts it on the club and on the team and on this tenant to ensure that that affordable housing is built at least 130 units of affordable housing being built on that site. So while I heard concerns on the city putting out money for professional sports, I think this process has improved that. While I had concerns about not getting affordable housing on this site and instead getting a club, a lease that can do both.

While I've heard concerns in the community around parking and transportation issues, I think councilmember Garza and councilmember kitchen's advocacy on that front to make sure we're investing in transit and our staff is in negotiation to make sure it's on the soccer team to make sure there is adequate parking enforcement and we have a good transportation plan alleviates many of the concerns we've heard from folks. And I appreciate having heard those concerns through this process. I think that's been a good thing that has improved this deal. I've also heard and been stopped by lots of people who badly want to -- something to work wherever it got to work. I've heard from aisd staff at many of the schools, several of the schools in my district, primarily low-income schools, primarily schools serving primarily kids of color about wanting there to be activities and things for recreational soccer which is committed to in this deal but also about having a soccer team here, having something that speaks to those kids and families, something those kids can do. I appreciated during last Thursday's meeting we had a good crew of kids from quail creek come and they are kids that I see playing right across from the ymca pretty time to get out to the ymca, I always see them playing and I'm trying to find a way to address both affordable housing, this being a financially good deal for the city and to address the needs of those people in my district who have come and stopped me asking for this I think strikes a good balance.

[1:36:54 PM]

When I was visiting my family in Houston, I kind of undercover of night bought my own ticket to the dynamo team and there were all kinds of people there from all across the city. When I was in Seattle meeting with some Latino and Latina leaders on totally separate issues, they kept bringing up the sounders in Seattle, and they have a much smaller Latin population in Seattle, but it was something that anchored them and they felt was really important to them. So I don't know whether this major league soccer team will do that here in Austin. I can't know that. But I hope that -- I hope it will help. I hope that it can. I want it to be accessible of all different incomes and that's why I'm proud we pushed hard to get 34,000 tickets every year if this all works out. 34,000 tickets free and discounted tickets including several thousand of those tickets being priced at under \$20 for the --

[inaudible].

[Lapse in audio] Just in summary, I know people in the community face issues, people just not able to pay their rent, pay for groceries and I'm going to continue my focus on those issues, but we do as a city also making it so you are not just surviving but there is something you can be proud of and feel a part of, something that people can come together around. And so while I do think that my prime responsibility and the main thing that I will continue spending my time on is helping folks survive and addressing in equality in our community, I do think that having something for folks to feel proud of and come together around and want to stay in Austin for is something that our council should continue working on and considering.

[1:39:01 PM]

And so that's why given all of this work, I'll feel comfortable voting yes on this deal. Thank you.

>> Mayor Adler: Any further discussion? Councilmember pool.

>> Pool: Thanks. I just had a couple of closing remarks after having really dug into this issue really deeply and I want to thank the neighbors who came down again tonight -- or this afternoon to join us and the folks who are in the audience who are supportive of soccer. Thank you for being here as well. It's clear there is going to be a difference of opinion on this project, but I do think there's probably something of a rough consensus around the fact that this has been a difficult conversation. And one of the reasons for that is because policy making exists in a gray area. We take in information. We hear opinions. We do cost benefit analyses, and at the end of the day we take a vote on how we've interpreted and balanced all of that. So I would like to just spend a moment walking through my thoughts because I think folks in this chamber would be interested in hearing my thoughts. When I first heard about this proposal last year there were no actual details attached, but one point was made clear, the proposal would not include city subsidies. When the actual proposed terms of the deal dropped this June with a demand that the city give Precourt an answer within a month, it was clear to me this deal would in fact include significant city subsidies. Now, when you are looking at something this big, it can be hard to get your arms around it. Fortunately we had guidance from the many economists and academics who have written on this topic and even spoken to us directly. And their advice was look at the costs, look at the opportunity costs and then make your decision. So that's what I've done.

[1:41:04 PM]

We've had an entire special called meeting devoted to the opportunity costs. The ability to fulfill the city and community's vision for this site as a vibrant mixed use property with deeply affordable units and quality parkland all with easy access to a new train station. I think we all have a clear understanding of those alternatives, and if council had the desire to go in this direction we're posted and could take action on that today, pick up where we left off two years ago and set a full rfp back in motion. It's no secret that I would fully support that course. I've also tried to get a sense of costs to the city and all our local governments relative to the benefits. And the way to do that that makes the most sense to me is to take on the one hand all of the direct and indirect costs our local governments would bear above and beyond what we would normally cover and to take on the other hand all of the benefits we would obtain above and beyond what we would normally receive, and then compare those two figures. The difference between those two figures is what it costs our local governments to sub I did size this project. That is, it is the cost the intangibles. When my staff and I did that work, spread across two different excel spread sheets and explained fully in a 16-page user manual, all freely available on the message board, what we found is that the difference, the total cost of those intangibles is a net subsidy of \$90 million to \$175 million over the first 20 years of this deal alone. By my back of the envelope calculations, we've narrowed that gap by about \$7 million through our discussions today and I do want to recognize that and appreciate my colleagues to move it in the right direction.

[1:43:17 PM]

Councilmembers alter, Houston and troxclair. And by mayor pro tem tovo and councilmembers Garza and Casar for their work on items such as events services costs and capital metro funding. Now, that \$90 million sub I did say which we've reduced to \$83 million is the most conservative estimate I could get. It assumes that property taxes would never increase, it fully credits Precourt for every community benefit they've list understand their package, even those that they are already required to give regardless. Now, some people have argued that this is, in fact, one of the better stadium deals out there. And here's the thing they may not be entirely wrong. The fact of the matter is that cities have been getting fleeced for decades on these types of deals, and cities have been more than willing to pony up. But just because other cities have entered into even bigger stadium deals with larger subsidies and open-ended commitments doesn't mean our deal doesn't also come with subsidies. This would be my far the largest incentive package the city of Austin has entered into in recent memory and possibly in its history dwarfing subsidies for the domain, Samsung and apple. It's also important to remember stadium deals have been changing. Public opinion has been turning against massive public subsidies for stadiums which is why subsidies have tend to do decrease over the last couple of soccer deals. A poll last week by a nationally recognized Progressive Polster found a majority of Austin residents now oppose the subsidies in this deal as well.

[1:45:18 PM]

This broader shift against subsidies may also explain why Miami is poised to get a better deal than what we have in front of us today. That may be why under their deal the team would meet their commitments, pay full market rent, cover all remade iation costs and pay property taxes. Some have pointed out the difference. The biggest of which is the Miami deal involves a much larger property with a lot more ancillary development, and that's true. But the Miami deal isn't noteworthy because every single detail lines up with mckalla. It's noteworthy because it demonstrates that it is possible to craft a deal in which a team meets the same commitments we would expect of anybody else. It's noteworthy because it means that it can happen. It may not be able to happen at Precourt's preferred location on Precourt's preferred time line or under Precourt's materials, but it is possible. So to me that is one of the key questions. Whether we believe that providing a full property tax exemption below market rent and other subsidies is worth it for the chance to have this team in the future assuming all their legal troubles work out which is not assured. Or whether we believe these subsidies are too much for a for-profit company that we should move ahead on a mixed use for mckalla while keeping the door open for a soccer proposal that approaches us with more recreate I have solutions. I believe fulfilling the vision we laid out in the north burnet gateway plan is the way to do. There is a number of things I didn't cover as with any project this size there's a lot of moving parts.

[1:47:21 PM]

Issues of missing details, traffic impact, environmental concerns and consequences of pitting cities against cities, among others. However, I believe I've discussed these topics extensively in public at council meetings, on the council message board and in the news and I think it's probably pretty clear to everyone where I stand on all of that and more. So I'll just simply leave it at that and thank you.

>> Mayor Adler: Thank you.

>> Pool: For listening.

>> Mayor Adler: Councilmember alter.

[Applause]

>> Alter: Thank you, councilmember pool, and I will try to be brief. I want to start by acknowledging the work across the dais to improve this deal. I appreciate the spirit in which those efforts were made. I also want to acknowledge the community's engagement on this issue on all sides. For me this is always been a decision about how best to use public lands in the public interest. For me no matter how much one loves soccer, a soccer stadium is a want not a need. I approached this decision with awareness that there's broad consensus among economists that stadium deals arrive from a race to the bottom between cities and benefit the owners and do not benefit cities. Those substantially improved from January and last week, being the best of a budge bunch of bad deals. At the expense of real needs the city has including affordable housing, green spaces and public transit. When I think about the taxpayers and their constant struggles to keep up with the rising cost of living, I cannot accept we are putting taxpayers from my perspective in a worse position in order to give land away to a private out-of-town corporation. Having reviewed the alternative proposals which include significant steps to address our affordability and mobility challenges, I can't support the stadium project.

[1:49:23 PM]

Giving away city-owned land is particularly problematic to me in the context of our decision to ask our community to support a \$250 million affordable housing bond so we can buy land for affordable housing. In addition, and this is not come up yet in the remarks, given what I've heard of late, my trust in our partner is much reduced. My trust was at risk from the start given their treatment of Columbus and time after time has been eroded by how they've approached Austin. Last week psc's will be use stood before us and said they are in the business of trying to make money on this deal and they want us to except this is for a public purpose. They asked forgive-aways and telling us the community benefits are secret or required by mls and confined to just voice. When gender equity issues are raised by this dais, they respond they didn't think about that. And now we hear from Columbus they have been dismissive of efforts there to support womens soccer. Despite recent disturbing revelations, psv has refused to have papa Johns as a sponsor while other teams have stopped that relationship. I'm not comfortable not having an opportunity to review the final agreement. I know there's a lot of excitement in this room and I'm in the minority with my precede comments I want to be clear why I'm voting no. I'd like to conclude, though, with an invitation to psv. I want to invite psv to join us as a real part of our community. The

success of your team and the success of the deal relies on your long-term investment in Austin. This has been a bumpy road so far and you have made a lot of missteps. But I'm hopeful that we can all come out of this with a positive outcome for the community. You have made a lot of promises that folks have put their trust into and I challenge you to stand by your commitments and meet the standards that you agreed upon today.

[1:51:27 PM]

As I have stated many times, I think a soccer team could bring great benefits to Austin. Professional sports team strengthen the fabric of the community and boost the city's identity. Games bring people together and provide a rallying point for residents and fans and community investments like the one psv promised will help promote opportunities for our kids. I remain hopeful these positive aspects are realized once the stadium is built and the team comes to Austin.

>> Mayor Adler: Thank you. Mr. Flannigan.

>> Flannigan: Thank you, mayor. This has been a fascinating process. There's a lot I think that has been said and that will be said, but I just want to go back to something I brought up on Thursday. The number of new faces I see in the chamber on a topic, on any topic to me is such an exciting expansion of democracy for the city. It takes a lot of public input to do the jobs that we do, and I think in Austin more so than any other city we take more public input than anybody else anywhere maybe in the world. But it's valuable and important and I want to encourage all of the folks who have engaged on this topic to continue to engage on the next topic. There are, as my colleagues said, difference between wants and needs. There are many things the city does now that will show up on future agendas that you could probably describe as a want and not a need. We do golf courses, we have historic preservation, we do a lot of creative arts facilities and those are all very valuable and I think we want to have those types of amenities in the city. And, you know, we often find people come into this chamber that you could probably describe as acting like a jerk.

[1:53:27 PM]

It happens. It happens on every side of every issue. And if I only ever listened to the nicest people in the room, I don't think anything would get done. Sometimes you got to be a little bold and sometimes you get things wrong. That happens no matter who is advocating and on no matter what issue. And I should -- I am not afraid and I don't think this dais should be afraid of people expressing passion for whatever issue they are passionate about and to my colleagues' point it is up to this dais to decide when the chips fall at the end. I have heard from more district 6 constituents on this topic than I think any other topic I have seen come before the count I know that's probably not true for some of my colleagues, but when it comes to district 6 and the people that I try to listen to first, those are the voices that I have heard the loudest. And because I think the staff has done such a good job, they have been phenomenal stewards of this process, they have responded to the resolutions that we have passed, and I think they have

accommodated just about every angle and accounted for just about every angle you can find, for all of those reasons I will be supporting this proposal.

[Applause]

>> Mayor Adler: Anything else? I would just say the soccer team is paying for and they are building a stadium and then they are giving it to us for free and then they are paying us rent to use it. They are delivering significant importance to community benefits. There are no public subsidies and because the most alternative use is affordable housing there's no property lost for revenue. I want to thank the staff for exceptional work. Thank you. Thanks to the community for the engagement. My colleagues for working through a difficult issue. The city is excited about major league soccer.

[1:55:30 PM]

I am too. I can't wait until we are all wearing the same Jersey, celebrating the first championship in Austin. Are we ready to vote in councilmember Garza.

>> Garza: I didn't have any prepared statements, but I wanted to underscore councilmember Casar's general sentiment. I feel like it's unfortunate that someone have -- our support or individual's support on affordable housing and how this has become a conflict between whether you subpoena for affordable housing or not especially those who have been lead advocates and especially having the creditism from members of dais to vote no on affordable housing measures. I think that framing could be used against anything. If you support a new courthouse, you don't support affordable housing because that money could have gone there. I want to thank our staff. I want to thank our law. I want to thank cap metro. I'm grateful for all the partners who included the funding and investment in cap metro. That's a conversation we need to have every time when we have new developments. I have to agree with councilmember Flannigan that I -- this is an issue that I don't have a very active constituency because they are so busy trying to, you know, make tough decisions and live in Austin and I have heard so many times so are we getting soccer. They have been following, I've heard it over and over again and I was very neutral on this, but I think we have come to a good thing for our city and I'm excited about this opportunity to unite the city in a way that we don't have right now. And coming from a city that, as I've spoken before, is united behind a team. I think this is a great thing for our city and I'm looking forward to voting yes.

[1:57:30 PM]

>> Mayor Adler: Councilmember Renteria.

>> Renteria: I don't have a prepared -- or anything. I just want to say that, you know, I've lived here all my life and I've seen projects and people that have really gone out and criticized calling it boondoggles and stuff. And talked to some people here just recently and they said, my god, this was the smartest thing the city has ever done by buying these buildings and office building that's down here on Barton

springs, the electric building there. You know, when one of -- when it was sold to the city. The outcry was so severe, you know. They are making a big mistake. You are overpaying it. Another one was when we invested in -- on 11th street. And we were paying per square foot more than what you could rent downtown, but it was a service we gave to 11th street so it could get developed. Those are the kind of things we have done in the past, you know, and that's why I'm supporting this. You know, I want to see the city grow where everybody is inclusive. You know, my big -- a lot of people criticize Mueller, you know, that -- that's -- that is a development that people say is for the rich, but it's not true. You know, that's city-owned land. We developed that. You know, 25% of the people there are low-income. It's diverse. It's a community that what I like to see, I want to see where it's mixed income and mixed race. And I think soccer is going to give that to us here. We need to get back together and become one big family so I'm supporting it.

>> Casar: Mayor? In trying to make the affordable housing language clean, there's a hanging preposition. So I just -- want to make it really clear that we change the words coordinate with to the words to cause and when we did that there's these hanging words that were in blue I thought you were struck out that say to enable third party that makes no sense.

[1:59:45 PM]

It would be confusing. I meant when we put in the words to cause, the words to enable third party now make no sense.

>> Mayor Adler: I think that makes sense. Ready to take a vote? Mayor pro tem.

>> Tovo: First of all, thank you. Thank you, councilmember Casar for fixing up the language at the last minute. We should strive to have the best written documents. And really thank you to all of my colleagues. This has been an enormously challenging issue and I appreciate the public for sticking with us. I know I have heard a lot from my constituents and also from individuals I work with throughout the community and they fall on both sides of this issue. And so I want to thank you all for providing feedback and commentary no matter what your position was that I think helped shape this into a much different proposal than the one that we received back in June. It is our obligation to make sure our city-owned lands are use for the highest value, and after a lot of discussion I believe we've arrived at a use that will bring value to the city of Austin and to our community members. And I'm -- you know, very grateful that this is going to, in my mind, I'm going to support this because I believe it will have the kind of benefits not just that my commission have described but also the benefits that's important all along to support youth programs throughout our city and ensuring in the language we've added today will ensure those really particularly emphasize programs for kids in this community who might not have access to that sport otherwise. And so, you know, for all of the reasons my colleagues have indicated, I think this is a better plan before us and at the end of the day I think represents a good balance between the use of our land and -- and fostering the sport her in the city of Austin.

[2:01:48 PM]

>> Mayor Adler: Thank you. Ready to take a vote? Councilmember troxclair.

>> Troxclair: Since everyone else is doing it, no, I'll be really fast. I still have lingering reservations about the financial deal, but I just want to tell everybody in the audience today, y'all have done a fantastic job of being -- of advocating for getting mls to Austin. I know it doesn't seem like it, but this actually happened -- things in this city happen incredibly slowly. It's like molasses here. This is actually surprisingly quick to get something this big done in this amount of time and you all have been a big part of that. I just wanted to say -- looks like it's going to pass so congratulations on getting mls to Austin. I'm excited about it even though I wish we could have gotten a better deal, I'm excited about being -- having a city -- being part of a city with a mls team. So thank you for really everybody on both sides advocating on this issue and showing up. All right.

>> Mayor Adler: Councilmember kitchen.

>> Kitchen: I don't want to be the only one who doesn't say anything so -- just very quickly, I am going to support this for all the reasons that people have been saying. I think that -- I think it is a good community use on balance with all -- all the issues that have been raised. I will say that I said at the very beginning of this process that I would not support the give-away of public land and I have not done that. I do not think this is a give-away of public land. I also said I would not support unclear terms or terms that were vague. I have not done that. I think with all the amendments that we did we have been able to clarify the terms. And so I'll just echo what my colleagues have said, that this has been a difficult issue and people have different perspectives.

[2:03:51 PM]

And I hope, and I hope that we can come away from today respecting everyone's opinions, respecting that everybody is acting in good faith, and move forward. Thank you.

>> Mayor Adler: Ready to take a vote? Those in favor of this please raise your hands. Councilmember Garza, Renteria, the mayor pro tem, Flannigan, kitchen, Casar and me. Those opposed? The other members of the dais. This passes 7-4.

[Cheers and applause] Congratulations. Council, we're going to -- I'm going to adjourn this meeting and at 3:00 we'll be in the boards and commission room to talk budget. With that, it is 2:04. Boards and commission room at 3:00. This meeting is adjourned.